

Not only does irrigation and reclamation pay for itself, but it also pays big dividends. It is a blue-chip investment.

COST ESTIMATES

Much criticism has been leveled at the Bureau of Reclamation, and many innuendos have been passed along that the engineers from the Bureau are able to justify many of the projects by intentionally underestimating the cost of the projects.

Calling your attention to a statement inserted on page 7828 of the CONGRESSIONAL RECORD on June 7, 1955, by my good friend and colleague from Colorado [Mr. ASPINALL], he points out that the actual cost of Federal reclamation projects has been below the cost estimates of the Bureau engineers.

The critics have pointed to some projects which have cost considerably more than the original estimates. The facts are there and on face value they cannot be disputed. However, there must be, and is, a reason for this. First and foremost, we cannot forget that the value of the dollar has dropped from 100 cents just prior to World War II to about 50 cents where it stands now.

Critics use estimates on projects made prior to World War II regardless of the fact that actual construction or the biggest share of construction was completed following the war. Certainly we are all aware of the fact that construction costs have more than doubled since 1939.

RECLAMATION AND SURPLUSES

Perhaps some of you have seen the booklet *We're Being Misled About Agricultural Surplus and Reclamation*, which also includes excerpts from a speech by the distinguished Senator from New Mexico who is also a former Secretary of Agriculture.

In the booklet, it is pointed out that we will soon be eating our way out of house and home. The former Secretary of Agriculture said:

Very soon, within the next 10 years, according to a study made by the Department of Agriculture as late as 1953, we may well be speaking of farm shortages, and the need for an adequate supply of farmlands. Crop surpluses will have vanished.

And on the question of when we will reach a balance between production and demand, the distinguished Senator from New Mexico said:

Officials in the Department of Agriculture, in testimony before congressional committees and in their various publications point out that as early as 1962—only 7 years from now—a balance of production and consumption could be reached.

We of the arid and semiarid West have realized for many, many years the importance of water. Only recently has the humid East begun to realize that the well does run dry at times. Many cities have been forced to ration water. Who of us would have realized that, 10 or 15 years ago? Very few.

Today, I want to speak specifically on the Ainsworth irrigation unit of the Missouri River Basin project.

This unit entails about 34,000 acres of irrigable land. The weather cycle in this area—north central Nebraska—shows there is enough rainfall to let the farmer realize a fair profit on his labors only 1 out of every 5 or 6 years.

Irrigation will enable the farmers of that area to realize a perfect union of land and water. It will help them to help themselves. Crops have been lost because rain was 2 or 3 days late, and crops have produced bumper yields when rains were sufficient and came at the right time.

To the farmer it will mean a diversified and excellent crop production and

will stabilize the vulnerable agricultural economy of the area.

As I have pointed out, my district—Fourth Congressional of Nebraska—has more cattle than any other congressional district in the Nation. Cattle feeders come from hundreds of miles to buy calves for their feed lots. Irrigation will provide a local market for locally produced cattle.

The people who live within the boundaries of the Ainsworth unit are eager to have irrigation. The district has passed a resolution agreeing to the form of the repayment contract. They are ready and able to assume the contractual requirements of repaying the Federal Government for the benefits they will receive.

The Federal Government, over the years, has spent billions for flood control, navigation, transportation subsidies, drought relief, crop support, and crop insurance—without expectation or hope of reimbursement. These areas of disaster continue to plague us. The irrigated oases in the arid West remain solid units of stabilized agricultural production—production in specialty crops which are not always in competition with those crops which are in surplus at the present time.

Again, I want to point out that I have no quarrel with the benefits derived from these areas of Federal operation, but I want to remind you that irrigation and reclamation projects pay back their appropriations; flood control and navigation projects do not.

The Ainsworth unit has been shown to be both economically and physically feasible. This is the one requirement which the Congress has placed on this project before actual construction may be begun. I hope my colleagues will see fit to pass H. R. 5749, which I have introduced, so actual construction of this project can be started as soon as possible.

SENATE

FRIDAY, JUNE 24, 1955

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

Our Father God, we turn to Thee for refuge from the noise and hurry of the world without and from the tyranny of selfish moods and motives within. May we fear only to be disloyal to the best we know, to betray those who love and trust us, and to disappoint Thy expectations concerning us.

In a world where we see the dreadful penalties of selfish human separations, dedicate us in this anguished generation as builders of bridges across all the dividing gulfs which mar and rend this sadly divided earth. Help us this new day to meet its joys with gratitude, its difficulties with fortitude, its duties with fidelity. Deliver us from petty irritations which spoil the music of life and which distort our perspectives. Bring us to the ending of the day unashamed and with a quiet mind. We ask it in the dear Redeemer's name. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The legislative clerk read the following letter:

UNITED STATES SENATE,
PRESIDENT PRO TEMPORE,
Washington, D. C., June 24, 1955.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. ALBEN W. BARKLEY, a Senator from the State of Kentucky, to perform the duties of the Chair during my absence.

WALTER F. GEORGE,
President pro tempore.

Mr. BARKLEY thereupon took the chair as Acting President pro tempore.

THE JOURNAL

On request of Mr. JOHNSON of Texas, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, June 23, 1955, was dispensed with.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, its reading clerk, announced that the House had

passed the following bills, in which it requested the concurrence of the Senate:

H. R. 5560. An act relating to the free importation of personal and household effects brought into the United States under Government orders, and for other purposes;

H. R. 5936. An act to provide wage credits under title II of the Social Security Act for military service before April 1956, and to permit application for lump-sum benefits under such title to be made within 2 years after interment or reinterment in the case of servicemen dying overseas before April 1956; and

H. R. 6382. An act to amend the International Claims Settlement Act of 1949, as amended, and for other purposes.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred as indicated:

H. R. 5560. An act relating to the free importation of personal and household effects brought into the United States under Government orders, and for other purposes; and

H. R. 5936. An act to provide wage credits under title II of the Social Security Act for military service before April 1956, and to permit application for lump-sum benefits under such title to be made within 2 years after

interment or reinterment in the case of servicemen dying overseas before April 1956; to the Committee on Finance.

H. R. 6382. An act to amend the International Claims Settlement Act of 1949, as amended, and for other purposes; to the Committee on Foreign Relations.

AMENDMENT OF FEDERAL AIRPORT ACT—REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of June 23, 1955,

Mr. MONRONEY, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (S. 1855) to amend the Federal Airport Act, as amended, reported it favorably on June 23, 1955, with amendments, and submitted a report (No. 636) thereon.

LEAVES OF ABSENCE

Mr. LANGER. Mr. President, I ask unanimous consent that I may be excused from attendance on the sessions of the Senate during the next week, on official business in connection with the Refugee Subcommittee of the Committee on the Judiciary. Hearings have been scheduled and witnesses have been subpoenaed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senator from Texas [Mr. DANIEL] and the Senator from Wyoming [Mr. O'MAHONEY] be given leave of the Senate to hold hearings in New York on behalf of the Judiciary Subcommittee on Narcotics.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. PAYNE:

S. 2305. A bill to exclude certain lands from Acadia National Park, Maine, and to authorize their disposal as surplus Federal property; to the Committee on Interior and Insular Affairs.

(See the remarks of Mr. PAYNE when he introduced the above bill, which appear under a separate heading.)

By Mr. PAYNE (by request):

S. 2306. A bill to amend the Communications Act of 1934 with respect to facilities for candidates for public office; to the Committee on Interstate and Foreign Commerce.

(See the remarks of Mr. PAYNE when he introduced the above bill, which appear under a separate heading.)

By Mr. LANGER:

S. 2307. A bill to provide for the establishment of a chapter dealing with narcotic violations in title 18 of the United States Code; to the Committee on the Judiciary.

By Mr. KENNEDY:

S. 2308. A bill to amend the Legislative Reorganization Act of 1946 in order to eliminate certain obsolete provisions and to make certain minor technical corrections therein, to amend title III of such act, and for other purposes; to the Committee on Government Operations.

(See the remarks of Mr. KENNEDY when he introduced the above bill, which appear under a separate heading.)

By Mr. ELLENDER (by request):

S. 2309. A bill to amend section 302 of the Packers and Stockyards Act of 1921 so as to make such act inapplicable to stockyards which engage exclusively in the sale of livestock on commission at public auction; to the Committee on Agriculture and Forestry.

By Mr. SCOTT (for Mr. MURRAY):

S. 2310. A bill for the relief of George Bellasakis; to the Committee on the Judiciary.

By Mr. NEELY (by request):

S. 2311. A bill to amend the act entitled "An act to authorize the Commissioners of the District of Columbia to assign officers and members of the Metropolitan Police force to duty in the detective bureau of the Metropolitan Police Department, and for other purposes," approved June 20, 1942; to the Committee on the District of Columbia.

By Mr. NEUBERGER (for himself and Mr. MORSE):

S. 2312. A bill for the relief of certain Korean war orphans; to the Committee on the Judiciary.

(See the remarks of Mr. NEUBERGER when he introduced the above bill, which appear under a separate heading.)

By Mr. CAPEHART (by request):

S. 2313. A bill to amend the Government Corporation Control Act;

S. 2314. A bill relating to the equities required with respect to home mortgages purchased under section 305 of the National Housing Act, as amended;

S. 2315. A bill to provide for increasing the equities required for the insurance of mortgages by the Federal Housing Administration, and for other purposes;

S. 2316. A bill to change the name of the Federal Housing Administration;

S. 2317. A bill to change the name of the Public Housing Administration;

S. 2318. A bill to prohibit a member of the Home Loan Bank Board from being a member of the Board of Trustees of the Federal Savings and Loan Insurance Corporation;

S. 2319. A bill relating to the authority of the Secretary of the Treasury to purchase obligations issued pursuant to section 11 of the Federal Home Loan Bank Act, as amended; and

S. 2320. A bill relating to the transfer of funds by the Housing and Home Finance Administrator; to the Committee on Banking and Currency.

By Mr. HAYDEN (for himself and Mr. CAPEHART):

S. 2321. A bill to amend section 308 of the Communications Act of 1934 with respect to certain applicants having an interest in, or an association with, a newspaper; to the Committee on Interstate and Foreign Commerce.

By Mr. GREEN:

S. 2322. A bill for the relief of Michael F. Corrigan and Louise A. Corrigan; to the Committee on the Judiciary.

By Mr. KEFAUVER:

S. 2323. A bill to provide for the delayed reporting of births within the District of Columbia; to the Committee on the District of Columbia.

S. 2324. A bill for the relief of Sgt. Donald D. Coleman; and

S. 2325. A bill for the relief of Hezekiah Nicodemus and his wife Grace Nicodemus and their daughter Sally Nicodemus; to the Committee on the Judiciary.

EXCLUSION OF CERTAIN LANDS FROM ACADIA NATIONAL PARK, MAINE

Mr. PAYNE. Mr. President, I introduce, for appropriate reference, a bill to authorize the exclusion from the Acadia National Park in the State of Maine of the tract of land known as the Green Lake Fish Hatchery, and to further authorize the disposal of this tract, in accordance with the laws relating to the disposal of surplus Federal property. I ask unanimous consent that the bill together with an explanatory statement, which I have prepared on this matter, be printed at this point in the RECORD.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill and statement will be printed in the RECORD.

The bill (S. 2305) to exclude certain lands from Acadia National Park, Maine, and to authorize their disposal as surplus Federal property, introduced by Mr. PAYNE, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

Be it enacted, etc., That the tract of land in Acadia National Park, State of Maine, comprising approximately 300 acres and identified as the Green Lake fish hatchery tract is hereby excluded from Acadia National Park, and the said tract is authorized to be disposed of in accordance with the laws relating to the disposition of Federal property.

The statement presented by Mr. PAYNE is as follows:

STATEMENT BY SENATOR PAYNE

Many years ago the Green Lake Fish Hatchery tract in the State of Maine was the property of the Fish and Wildlife Service which was then under the Department of Commerce. The tract of land involved totals some 332 acres. The hatchery itself was closed by the Fish and Wildlife Service in 1922. From then until 1935 the land lay idle under the general supervision of the Department of Commerce. In 1935 the land, by act of Congress, was transferred to the National Park Service of the Department of the Interior to be used as part of the Acadia National Park. The Green Lake Fish Hatchery tract is located some 30 miles north of Acadia National Park. Due to this distance, primarily, the National Park Service never made any specific use of the land.

In 1947, the city of Bangor, Maine, applied for and was granted permission to use part of the property for recreational purposes. This permit has been continuously renewed up to the present time. In addition the Department of the Air Force utilizes part of the property as a recreational area for personnel stationed at Dow Air Force Base in Bangor, Maine.

After several inquiries from Maine concerning the status of this tract, I requested the Director of the National Park Service for a report on the Green Lake Fish Hatchery tract. In a letter dated October 20, 1954, the Director of the National Park Service stated:

"We are interested in making an appropriate disposition of this property as we have reached the conclusion that it has little if any value for purposes of Acadia National Park."

"The Green Lake Fish Hatchery tract, which became excess to the needs of the Department of Commerce for fish hatchery purposes, was transferred to this Department a number of years ago and became a part of Acadia National Park. We have found, however, that other than a small portion of the area, the property has little value for national park purposes. A part of the area has been used by the city of Bangor, under permit from this Department, for recreation purposes."

In the same letter the Director went on to state:

"As a park-administering agency, and because of the nature of this property, we are, of course, interested in the possibility of its continued use for some form of local public

recreation. However, if no solution of this kind can be reached, the only solution will be to dispose of it as surplus property. In any event, since the area is a part of the park, legislation to dispose of it to the State, to any political subdivision, or to dispose of its surplus property will be necessary."

On October 26, 1954, the city manager of Bangor, Maine, wrote to me as follows:

"The city council has requested that I indicate to you our continued interest in this area as a swimming and a general recreation area for the city of Bangor. Our municipal recreation department uses this area daily during the summer and Dow Air Force Base recreation organizations also use the area considerably."

Further interest in acquiring title to this property was indicated by the chairman of the Board of Selectmen of the town of Dedham, Maine, in a letter to this office dated December 6, 1954, which stated:

"Whereas part of this property is located in the town of Dedham the town feels it should have first refusal on the purchase of this site. I have talked to the city manager of Ellsworth and he feels much the same about acquiring the property situated in Ellsworth as we do."

As a final expression of interest the following quotation from a letter written by the city manager of Bangor, Maine, on December 16, 1954, gives a good summary of the overall picture:

"As I see the situation, the National Park Service is anxious to dispose of the property. The city of Bangor has made extensive recreational use of at least part of this property since 1947. Also as you know, Dow Airfield personnel use the area for recreational purposes."

"According to correspondence I find in my files, Mr. Orr, my predecessor in Bangor, had a considerable amount of correspondence with the State of Maine relative to the possibility of the State park commission taking over the Green Lake area for State park purposes. This, however, was not deemed feasible by the State park commission."

"Our feelings in this matter may be summed up by saying that we are definitely interested in continued use of the area for municipal recreational purposes, but do not necessarily wish to acquire title to the property unless no other Government agency or subdivision wants it."

The situation up to the present moment is best indicated by an excerpt from a letter from the Director of the National Park Service dated June 20, 1955, as follows:

"As stated in our letter of October 20, 1954, we have reached the conclusion that the property has little value for purposes of Acadia National Park and, as a consequence, we are interested in making appropriate disposition of it. As you know, an act of Congress will be required for its disposition. Legislation to exclude the land from Acadia National Park and to authorize the disposal as surplus Federal property is on the Department's legislative program. However, no bill to accomplish this has yet been introduced."

In view of the foregoing I have decided to introduce a bill to authorize the exclusion from the Acadia National Park in the State of Maine of the Green Lake Fish Hatchery tract and to further authorize the disposal of this tract in accordance with the laws relating to the disposal of surplus Federal property. Under these laws any Federal agency desiring the property, such as the Department of the Air Force for use of Dow Air Force Base in Bangor, Maine, would have first priority in acquiring title to the property. If no Federal agency desired the property, the State of Maine would have second priority, while any interested municipalities in Maine, such as Bangor, Ellsworth, and Dedham which have already expressed an interest in at least part of the property, would have third priority. In the event that no governmental unit wants to acquire title

to the property, it would be put up for sale to private bidders. The possibility of a sale to private bidders of the Green Lake Fish Hatchery appears, in view of the interest expressed in the above-mentioned letters by cities and towns as well as that of the Air Force, rather remote.

Since this tract was made a part of Acadia National Park by an act of Congress, it necessarily will take an act of Congress to authorize its disposition as surplus as desired by the National Park Service, because its distance from the main park precludes proper utilization in conjunction with Acadia.

It is my hope that the Congress will act favorably on this bill so that the Green Lake Fish Hatchery tract may continue to be available for use by the citizens of Maine for recreational purposes.

AMENDMENT OF COMMUNICATIONS ACT, RELATING TO FACILITIES FOR CANDIDATES FOR PUBLIC OFFICE

Mr. PAYNE. Mr. President, by request, I introduce for appropriate reference, a bill to amend the Communications Act of 1934 with respect to facilities for candidates for public office. I ask unanimous consent that a statement, prepared by me, pertaining to the bill, be printed in the RECORD.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the statement will be printed in the RECORD.

The bill (S. 2306) to amend the Communications Act of 1934 with respect to facilities for candidates for public office, introduced by Mr. PAYNE, by request, was received, read twice by its title, and referred to the Committee on Interstate and Foreign Commerce.

The statement presented by Mr. PAYNE is as follows:

STATEMENT BY SENATOR PAYNE

By request, I am introducing a bill designed to exempt from the equal time provision contained in the political broadcast section of the Federal Communications Act of 1934—appearances of candidates on news programs, panel discussions, or similar programs controlled by broadcasting stations or networks.

It is felt that this matter should be given careful study by the Committee on Interstate and Foreign Commerce before any legislation is reported to the Senate. Although the difficulties caused the broadcasting industry by the present law are readily apparent, those difficulties should not be resolved in such a way as to infringe on equal opportunities to broadcast time by legitimate candidates for public office.

The exemption proposed to be made by this bill would leave intact the equal-time principle embodied in section 315 of the Communications Act. It would, however, give leeway to broadcasters and networks with regard to the appearance of political candidates on news, news interviews, news documentary, panel discussion, debate, or similar type program where the format and production of the program and the participants therein are determined by the broadcasting station, or by the network in the case of a network program.

Broadcasters, of course, would be called upon to justify the exercise of their discretion under this amendment in connection with renewal proceedings before the Federal Communications Commission at the time their licenses are up for renewal. A broadcaster might have to show to the sat-

isfaction of the Commission that in the exercise of this discretion he acted fairly and thus served the public interest.

Under the provisions of the amendment, the exemption would also apply with regard to network-controlled programs of this nature. Networks are not licensed and, therefore, there would be no occasion to review their performance when their licenses come up for renewal. However, a question might arise whether the Commission should not be granted power to review the performance of networks with regard to their performance under the proposed amendment.

Finally, the amendment raises a question, at least by indirection, whether the basic provisions of the political broadcast section of the Federal Communications Act meet the present-day needs of broadcasters, networks, political candidates, and the electorate in view of the still-increasing importance of the broadcast medium in the political arena.

Section 315 (a), as proposed to be amended by the bill, reads as follows—italics indicate the new language which would be added to the present provisions of section 315 (a) of the Federal Communications Act:

"Sec. 315. (a) If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: *Provided*, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate. *Appearance by a legally qualified candidate on any news, news interview, news documentary, panel discussion, debate or similar type program where the format and production of the program and the participants therein are determined by the broadcasting station, or by the network in the case of a network program, shall not be deemed to be use of a broadcasting station within the meaning of this subsection.*"

AMENDMENT OF LEGISLATIVE REORGANIZATION ACT OF 1946, RELATING TO FEDERAL REGULATION OF LOBBYING ACT

Mr. KENNEDY. Mr. President, I introduce, for appropriate reference, a bill to revise and strengthen the present Federal Regulation of Lobbying Act.

It is my intention, as chairman of the Subcommittee on Reorganization of the Senate Committee on Government Operations, to hold hearings on this bill early in the next session of Congress. I am introducing the bill at this time in the hope that in the intervening period it will receive thorough analysis and constructive criticism from other Members of Congress, political-science experts, and other concerned members of the public. Congress cannot postpone much longer the task of revising the present Lobbying Act, the constitutionality of which was upheld by the Supreme Court in a split decision only when the majority narrowly interpreted or rewrote many provisions of the act. Certainly if we are to be worthy of the trust confided in us, we must make certain that we neither impair the right of petition nor permit abuses and undisclosed pressures to interfere with the legislative process.

This bill is nearly identical to a similar bill which I introduced last year. I ask unanimous consent that there be printed in the RECORD, at this point in my remarks, a brief, simplified summary of the amendments proposed by this measure.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

This bill contains the following major improvements:

1. Enforcement: A copy of all registration and reporting documents would go to the Attorney General, who is charged with the responsibility for the enforcement of the act. The use of more precise terms, the expansion of such definitions as legislative agent and extension of the terms of the act to make certain that it is not evaded by those at whom it is aimed, will, I hope, facilitate its enforcement and thereby augment its significance on the national legislative scene.

2. Constitutionality: Items of dubious constitutionality, including those which had to be stretched by the Supreme Court in order to prevent infringement of free speech, and those which the Supreme Court had to rewrite, according to some, in order to make them sufficiently clear to meet the standards of certainty, have been eliminated or rewritten under this bill. The coverage of indirect lobbying is omitted; the prohibition of any lobbying either after a conviction or prior to registration is omitted; radio and TV stations are added to newspapers and regularly published periodicals under the exemption clause; and other provisions seek to remove constitutional objections to the law and thus facilitate its administration.

3. Contingent fees: This bill seeks for the first time to prohibit contingent fee lobbying contracts, whereby the compensation of lobbyists is dependent upon their "success" in securing the passage or defeat of particular measures. This practice, which is a serious reflection upon the legislative process and those who seek to influence it, is already outlawed under the lobby control laws of many States; and such a provision was recommended by the Buchanan committee and others.

4. Draftsmanship: This bill attempts to meet criticisms of the language of the old law by rewriting it in what, in my opinion, is clearer, more comprehensive, more consistent, better integrated, more practical, and more up-to-date terminology. Those definitions which have been termed "loose" are made clearer and more concise, and other definitions have been added in order to clarify the intent of the law. Reporting or coverage requirements concerning the amount of contributions or expenditures under the act are set at levels which balance practicality with adequacy of coverage. The word "regulation" is removed from the title, to reemphasize the point that no stigma should be attached to those registering under the act. Internal conflicts and confusion have been eliminated.

Mr. KENNEDY. I now introduce the bill, and request its appropriate reference.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 2308) to amend the Legislative Reorganization Act of 1946 in order to eliminate certain obsolete provisions and to make certain minor technical corrections therein, to amend title III of such act, and for other purposes, introduced by Mr. KENNEDY, was received, read twice by its title, and referred to the Committee on Government Operations.

RELIEF OF CERTAIN KOREAN WAR ORPHANS

Mr. NEUBERGER. Mr. President, on behalf of myself, and my colleague, the senior Senator from Oregon [Mr. MORSE], I introduce, for appropriate reference, a bill to permit Mr. and Mrs. Harry Holt, of Creswell, Oreg., to bring to the United States six minor Korean war orphans. I ask unanimous consent that the bill, together with a statement by me, in explanation of the bill, may be printed in the RECORD.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill and statement will be printed in the RECORD.

The bill (S. 2312) for the relief of certain Korean war orphans, introduced by Mr. NEUBERGER (for himself and Mr. MORSE), was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

Be it enacted, etc., That, for the purposes of sections 101 (a) (27) (A) and 205 of the Immigration and Nationality Act, the six minor Korean war orphans to be adopted by Harry Holt and Bertha Holt shall be deemed to be the natural-born alien children of the said Harry Holt and Bertha Holt, citizens of the United States.

The statement presented by Mr. NEUBERGER is as follows:

STATEMENT BY SENATOR NEUBERGER

The Refugee Relief Act provides that no more than two special nonquota immigrant visas may be issued to eligible orphans adopted by a United States citizen. Adopted children of American citizens are entitled to fourth preference status within the quota. At this time the Korean fourth preference quota is heavily oversubscribed, resulting in over a 2-year wait. The purpose of this legislation is to allow Mr. and Mrs. Holt to bring, upon enactment, 6 Korean war orphans to the United States in addition to the 2 orphans permitted under the Refugee Relief Act.

Mr. and Mrs. Holt and their own children are to be congratulated for their warm-hearted and humanitarian endeavor. They are performing a service to mankind in bringing about a better understanding among people. I have received 79 letters from friends and neighbors of the Holts urging favorable action and endorsing the Holts' fine spirit. After careful investigation of the facts, I believe the Holts are well prepared to provide a wholesome Christian home in Oregon for these homeless Korean war orphans.

Mr. Holt is now in Korea making the necessary arrangements for adoption of the Korean war orphans. I hope that the Congress can act with all speed. Congresswoman EDITH S. GREEN of the Oregon Third District is introducing a companion bill in the House.

JURISDICTION BY CERTAIN STATES OVER CRIMINAL AND CIVIL CASES ARISING ON INDIAN RESERVATIONS—AMENDMENTS

Mr. WATKINS submitted amendments, intended to be proposed by him to the bill (S. 51) to amend the act entitled "An act to confer jurisdiction on the States of California, Minnesota, Nebraska, Oregon, and Wisconsin, with respect to criminal offenses and civil causes of action committed or arising on Indian reservations within such States,

and for other purposes," which were ordered to lie on the table and to be printed.

PROHIBITION OF TRANSPORTATION OF GAMBLING DEVICES IN INTERSTATE AND FOREIGN COMMERCE—AMENDMENT

Mr. KEFAUVER submitted an amendment, in the nature of a substitute, intended to be proposed by him to the bill (S. 363) to amend section 3 of the act of January 2, 1951, prohibiting the transportation of gambling devices in interstate and foreign commerce, which was referred to the Committee on Interstate and Foreign Commerce, and ordered to be printed.

NOTICE OF MEETING OF ANTITRUST SUBCOMMITTEE OF THE JUDICIARY COMMITTEE

Mr. KEFAUVER. Mr. President, I wish to give notice that on Monday afternoon next, at 2 o'clock, there will be a meeting of the Antitrust Subcommittee of the Judiciary Committee in room 424 of the Senate Office Building.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE RECORD

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the RECORD, as follows:

By Mr. SMATHERS:

Article, entitled "Job Opportunities for Handicapped in Small Business," written by Wendell B. Barnes, Administrator of the Small Business Administration.

DEATH OF AMON G. CARTER

Mr. JOHNSON of Texas. Mr. President, last night a man who was one of the great moving forces of our times passed away. He was Amon G. Carter, publisher of the Fort Worth Star-Telegram.

It is difficult to find words that adequately describe the attributes of Amon Carter. In west Texas he was a towering figure in the daily life of our citizens. His name was synonymous with one of our greatest cities—in fact, he was frequently known as Mr. Fort Worth.

But the impact of his personality was felt far beyond the borders of Texas. I doubt whether there are any leading people on the American scene—and very few on the international scene—who did not know him and respect him.

He was a tower of strength to me personally in some of the most critical periods of my life. In my 1941 campaign for the Senate he was an ardent supporter. In 1948 he was a friend—unstinting in his loyalty.

In recent years we had our differences—and they were differences of magnitude. But they were honest disagreements between principled men, and they never affected my deep respect and affection for him.

Amon Carter was a man who stood in the mainstream of the history of our times. He was born 75 years ago in a

town so small that it was difficult to find on the map.

In those days west Texas was a vast, undeveloped stretch of territory. Fort Worth itself was just another "cow-town"—an outpost of civilization on the Trinity River.

The fact that west Texas is now booming and that Fort Worth is a metropolis can be attributed to the toil and the initiative of all its citizens. But they will unite in agreeing that Amon Carter was a leader—a moving spirit whose determination sparked this rapid growth.

There were few fields into which this restless, dynamic man did not enter and leave his mark. He was known internationally in industry, in aviation, in journalism, and in civic enterprises.

In every field he was a builder—a man who insisted upon solid, concrete achievements.

He walked with cattlemen and kings; with cotton farmers and with Presidents. He had the common touch which kept him close to all humanity and the uncommon qualities which made him a leader.

His death closes a chapter in our history—a chapter that has few equals. His friends and his loved ones are plunged into the deepest mourning.

But they have the consolation of knowing that his is a name which will not soon be forgotten. He left behind him monuments which will endure for years to come, and, Mr. President, such men are rare.

Mr. KNOWLAND. Mr. President, I wish to join the majority leader in paying tribute to the memory of a great Texan, a great American, and one of the outstanding newspaper publishers of our time. This year has seen the passing of a number of leaders of the fourth estate, and Mr. Carter played an important part in the newspaper business. His was one of the great newspapers of the country. He was known as a constructive builder in his home community of Fort Worth. He played a part in the civic activities of the community, of his State, and of his Nation. Those of us on this side of the aisle who either knew him or knew of his activities join in extending our sympathy to his family and to his friends and associates on his newspaper.

Mr. SYMINGTON. Mr. President, I should like to associate myself with the remarks of the distinguished majority leader and the distinguished minority leader, in paying tribute to a great American, Mr. Amon Carter, of Fort Worth, Tex.

When I was associated with the Air Force, no citizen in the United States was more interested than he in seeing that the airpower of this country was dominant over that of any possible enemy. Mr. Carter was known as a great host, a businessman of tremendous vision. He was one of the most outstanding men of our time, a great pioneer.

I join the other Senators in expressing to his lovely wife and his family deep sorrow at his passing.

ADMINISTRATION AND MANAGEMENT OF TIMBER ON PUBLIC LANDS

Mr. NEUBERGER. Mr. President, a recent small news item from the town of Montesano, Wash., dramatically points up a question of the administration of our national timber resources which is of vital importance to the Pacific Northwest, and which deserves the continued attention of the congressional committees charged with the supervision of our Federal land policies. I ask unanimous consent, Mr. President, that this story, entitled "Hemlock Brings Record Price," from the Seattle Post-Intelligencer of June 9, 1955, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HEMLOCK BRINGS RECORD PRICE

MONTESANO, June 8.—A record price of \$31 a thousand board-feet for hemlock was recorded in a State timber sale here Tuesday.

Bay City Timber Corp. paid that figure in buying a total of 4,154,000 feet of timber, including more than 3 million feet of hemlock, on 231 acres northwest of Arctic. The total price was \$117,985.

In a second sale of timber near Arctic the Wagar Lumber Co. paid \$122,470 for 4,666,000 feet. The Wagar bid was \$25 for hemlock, \$33.50 for Douglas fir, \$29 for spruce, and \$30 for cedar.

Mr. NEUBERGER. Mr. President, this little story merely tells that at 2 timber sales in the State of Washington, 3 million board-feet of hemlock were sold at a record price of \$31 a thousand, while Douglas fir brought \$33.50, spruce \$29, and cedar \$30 per thousand, respectively.

Yet elsewhere in the same area, agencies of the United States Government sell hundreds of millions of board-feet of the same varieties of timber to lumber companies which enjoy the benefit of long-term exclusive contracts at prices ranging from \$4.50 to perhaps \$15 per thousand board-feet.

These figures, Mr. President, are a measure of the economic values which are at stake in the policies of Government agencies toward the vast federally held forest resources of the Northwest. Perhaps we should not wonder at the great pressures which are exerted toward opening up more forest lands, even within national parks, to logging under similarly generous administrative policies.

In the New York Times for Sunday, June 5, 1955, an article by John B. Oakes outlined some of the growing pressures under the Eisenhower administration against the conservation policies which we have carefully developed over half a century.

Among other symptoms of these pressures, the article mentions the continuing efforts to open to commercial logging parts of the great forests which have been incorporated in the Olympic National Park in the State of Washington. The latest sally against this great national park has come, once again, from the Rayonier Corp., which has a number of large sawmills in proximity to the park.

RAYONIER ATTACKS OUR NATIONAL PARKS

Rayonier, Inc., won a degree of national attention among conservationists

last winter with an elaborate 2-page, multicolor advertisement in Time magazine attacking as economic waste the exclusion of logging or any other form of commercial use from the Olympic National Park. It still deplores the fact that, in this vast national park, big, beautiful, high-quality trees are permitted to mature, to die, eventually to fall, and to decompose in accordance with the primeval cycles of the forest, without economic utilization of the timber. Rayonier finds difficulty in recognizing other equal social values in maintaining, unspoiled and unimpaired by logging or other commercial use, forests large enough—not for picnic grounds—but so that men who enter them can leave our hectic civilization behind, and can see the same natural grandeur that met the first explorers of the West.

It is not as if the large lumber operators in the Northwest were being denied access to the annual yield of timber on the public lands, and were forced to rely on their own scientifically managed private tree farms. As a matter of fact, these large operators, by the very fact of their size, often benefit from policies of the Federal agencies which are charged with the management of the timber on the public lands.

These agencies sometimes feel, Mr. President, that, for one reason or another, perhaps differing from case to case, it facilitates the administration and management of these tremendous forest resources to make large-scale sale contracts with some of the biggest operators, even at the cost of giving up the benefits of open competitive bidding for this timber by all interested—large and small—operators in the vicinity.

WHY DOES INDIAN TIMBER BRING SO LITTLE?

As one example of the effect of such administrative policies, Mr. President, I might mention the case of the Quinault Indian Reservation, on the Pacific coast, north of Hoquiam, Wash. Facts which have been brought to my attention raise serious questions as to the wisdom of these policies.

Because of the scattered ownership patterns of Indian-trust allotments, the Bureau of Indian Affairs has thought it necessary to sell the timber on the Quinault Reservation by long-term contracts covering large areas. At the present time, such contracts, covering immense stands of Indian-owned timber for periods from 29 to 34 years, are in force with the Ozette Railway Co., the Aloha Lumber Co., and Rayonier, Inc. There is also a 5-year contract with Wagar Lumber Co., the company mentioned in the newspaper story. Under this contract, the Indian Bureau receives from \$6.65 to \$13 for the same varieties of timber for which the company bid from \$25 to \$33.50 at the sale reported by the Post-Intelligencer.

These contracts include provisions for frequent adjustment of the prices to be paid by the purchasers for different kinds of trees, the so-called stumpage rates, and other provisions for adjustment of the ratio of these prices to the going value of logs at the sawmill, on which the stumpage rates are based. Yet a comparison of the actual prices received

by the Bureau of Indian Affairs, on behalf of the Indian tribes, with those paid for comparable Government timber at competitive sales elsewhere in the surrounding territories, indicates that such administrative adjustments in these vast, long-term sales have not, in fact, given the Indians and the public the protection which might be provided by the pressures of competitive bidding.

THIRTY-ONE DOLLARS PER THOUSAND VERSUS
NINE DOLLARS TO FIFTEEN DOLLARS

Thus, to take some of the most common varieties of lumber on the Quinault Reservation, hemlock is sold under the contracts at prices ranging from \$4.50 to \$7 per thousand board-feet. I have been told that at competitive sales by the United States Forest Service and elsewhere, it brings from \$9 to \$15, or exactly twice as much; and again I remind the Senate of the record \$31 per thousand paid for 3 million board-feet at the recent sale near Montesano. The contract rates for cedar, spruce, and Douglas fir vary from about \$10 to \$15 per thousand board-feet; yet the competitive market prices for these varieties often run more than twice the respective amounts paid to the Indian Service by the large mills under their long-term contracts.

I repeat, Mr. President, these facts raise serious questions concerning the adequacy of present administrative policies toward these forests.

Are we discharging our responsibility toward the Indians to manage their valuable natural assets so as to bring them the largest available economic return? To many persons who have written me about the Quinault case, it does not look like it.

If, indeed, we fall short of this trust, is there not at least a possibility that the United States Government will find itself legally indebted to these Indians for their economic loss from the Government's low-price timber sales, and obliged to make up the difference to the Indians, so that, in effect, the taxpayers may end up subsidizing the big timber buyers with these cheap logs from the Quinault?

Finally, Mr. President, administrative policies, of whatever kind, which lead to timber sales of a duration or size, or to conditions of access which, in effect, divide Government-owned timber stands among a few great lumber operators, not only deprive the American people of the best return for their timber, but also have serious adverse effects on smaller independent mills, which depend on Government timber; on the communities in which these mills operate; and, in fact, on the economic efficiency of the whole industry, including the giants themselves.

Thus, Mr. President, I believe that we must continue to review our government policies toward the sale of timber from federally held forests. But there are many policies to review before we need to consider opening up the Olympic or any American national forest to logging or other forms of commercial use.

I call to the attention of the Indian Affairs Subcommittee of the Senate Committee on Interior and Insular Affairs—a subcommittee headed by the very able junior Senator from Wyoming

[Mr. O'MAHONEY]—the absurdly low prices being received by the Government for the Indian timber on the Olympic Peninsula, as contrasted with the higher prices received for similar timber in nearby areas. The junior Senator from Wyoming is a champion of the welfare and rights of the American Indian. He will look into the matter carefully, I know. In addition, I take some satisfaction in the fact that I also am a member of his subcommittee.

In conclusion, Mr. President, I ask unanimous consent to have printed in the RECORD, along with my remarks, the article by John Oakes, from the New York Times of June 5, 1955. I call special attention to the section of the article entitled "Attack on Forests," in which Mr. Oakes refers to the desires of the Rayonier corporation to log the magnificent forests now protected with the borders of the Olympic National Park. One can only wonder whether Rayonier hopes to secure title to the trees of the Olympic Park for the same low prices it is paying the Indian agency for the timber belonging to our Indian tribes.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONSERVATION: GROWING PRESSURES—THREATS
TO WORK OF FISH AND WILDLIFE SERVICE ON
THE INCREASE

(By John B. Oakes)

News of the retirement of Albert M. Day after 36 years of Federal service seems strangely appropriate at this period when the philosophy of conservation is at so low an ebb in administration circles in Washington. Mr. Day entered the old Biological Survey in 1919 as a temporary field assistant in Wyoming and rose through the ranks to become director of the Fish and Wildlife Service in 1946, a post in which he served with distinction for 7 years until, in 1953, he was unceremoniously shoved aside in favor of a noncareer man who still holds the job.

Conservationists irrespective of party strongly protested the demotion of Mr. Day, who presumably had aroused the ire of some of the powerful pressure groups—notably duck hunters and salmon packers—affected by the strong but necessary conservation measures of the Fish and Wildlife Service. Mr. Day was described at the time by Rachel Carson, former editor in chief of the Service, as "an able and fair-minded administrator, with courage to stand firm against the minority groups who demanded that he relax wildlife conservation measures." For the past 2 years he has been assistant to the director.

SOURCE OF ALARM

His departure now comes at a moment when some conservation agencies have been expressing serious concern over the political and other pressures that are threatening the work of the Fish and Wildlife Service on at least two fronts. In both Maryland and Ohio powerful politicians have reportedly attempted to influence the Department of the Interior (of which the service is a part) to ease its rigorous enforcement of regulations against baiting of waterfowl, i. e., scattering food in strategic areas to bring the ducks within easy range of hidden guns. The question now is whether the Department is going to be pressured into modifying or removing its anti-baiting rules in the same way it was apparently pressured into easing other waterfowl-hunting regulations in the fall of 1953.

The Fish and Wildlife Service also is being faced with increasing demands to pare down or even to eliminate some of the nearly 300

national wildlife refuges for the administration of which it is responsible. The Wildlife Management Institute reports, for example, that Nevada game officials want to wipe out the Desert Game Range, home of a band of desert bighorn sheep, in order to open the area to public hunting. Other areas involved include national refuges in Nevada, Oregon, Washington, Maine, and Arizona, and the very important Tule Lake Refuge in northern California and the Wichita Mountains Wildlife Refuge in Oklahoma. The Army wants to cut into the last-named in order to extend an artillery range.

Created in 1905 by President Theodore Roosevelt, the Wichita Refuge includes about 800 bison, 300 elk, herds of antelope, and deer and some 350 Texas longhorn cattle, a strain that came within an ace of extinction a generation ago. As the land is already owned by the Government, it would cost nothing for the Army to acquire it—which makes it very tempting in any acquisition program. But every possible alternative ought to be explored before this tract, carefully built up for its present purpose over a period of 50 years, is lost permanently as a game refuge.

The efforts to chip away at such areas lend especial pertinence to a bill introduced by Representative LEE METCALF, of Montana. This bill (H. R. 5306) would require specific congressional approval before any national wildlife refuge is disposed of. The Secretary of the Interior now has the right to do so at will.

BILLBOARD REGULATION

The great respect in which Senator GEORGE of Georgia is held by his colleagues ought not blind them to the fact that, on occasion, Senator GEORGE can be wrong. In a recent debate on the Federal highway bill, Senator GEORGE reportedly rose up and single-handedly killed a provision that would have facilitated governmental control of outdoor advertising signs along the projected highways. The provision has been introduced by Senator NEUBERGER, of Oregon. Senator GEORGE objected that the proposed extension of advertising control would be an unwarranted invasion of States rights. His prestige was so great and his opposition so emphatic that the proponents of the provision felt obliged to back down. Thus there was killed a hopeful attempt to protect this future highway system, which will cost the American people billions of dollars, from the blight of billboards that have already destroyed so much of the scenery and the pleasure of driving in virtually every State of the Union.

ATTACK ON FORESTS

The large cellulose chemistry corporation which some 6 months ago published a 2-page color advertisement that offended many conservationists throughout the country (see this column for January 2, 1955) has returned to the attack. Rayonier Inc. has just issued a publicity release again breathing defiance of the policy of "looking up" timber in national parks and attacking the Government for "allowing millions of board feet of prime commercial timber each year to mature, die, topple over and rot." The immediate target of this particular campaign is the Olympic National Park, which is in the vicinity of 3 of the corporation's large mills.

If this corporation limited its publicity campaign to stressing the admirable scientific forestry methods it practices, modern-minded conservationists would only applaud. But when it suggests that the merchantable timber in national parks is wasted by not being logged it shows failure to understand the whole philosophy behind the parks and a confusion between the purpose of national parks and of national forests. The latter are, of course, managed for sustained-yield timber production, among other things, but the parks are meant to be pre-

served in perpetuity "unimpaired for the enjoyment of future generations," in the words of the basic law of 1916. The national park system would be destroyed overnight if ever the idea were accepted that any commercially valuable product contained within the parks should be exploited by either public or private agencies. The parks contain values of greater importance to our country and our people than the number of board feet of standing timber or the dollars and cents they represent.

MAJ. GEN. KERN D. METZGER

Mr. SCOTT. Mr. President, on behalf of the senior Senator from Montana [Mr. MURRAY], I ask unanimous consent that comments prepared by the Senator from Montana [Mr. MURRAY] on the untimely death of Maj. Gen. Kern D. Metzger be printed at this point in the body of the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR MURRAY

MAJ. GEN. KERN D. METZGER

I was profoundly shocked and deeply saddened by the sudden passing last Sunday of Maj. Gen. Kern D. Metzger.

Kern Metzger was a warmhearted, self-assured man who conscientiously and devotedly served his country for the last two decades of his life. Twice, in 1942 and in 1951, he left his successful business and commercial operations to fulfill what he considered to be his personal obligations to his country and its Government. When he left the armed services for the second time, in 1954, he abandoned nothing of his sense of duty to his country and in recent past months he served a committee of this Congress.

Kern Metzger turned his powers of perception and determination and his administrative abilities toward helping this country build the finest Air Force in the world. He was one of our top men in Air Force production and mobilization fields. He was commissioned a captain in the Air Reserve in August of 1942 and 2 months later he became administrative officer of the production division of the materiel command, at Wright Field in Ohio. In February of 1943 he was named assistant chief of the requirements branch there and in May he became chief of the branch—a position which he held with only a brief interruption until he left active duty in April 1946.

In February of 1951 he was recalled to active duty as deputy director of industrial resources at Air Force Headquarters. The following October he became chief of the industrial resources division at Air Materiel Command Headquarters in Wright Field, Ohio. In September 1952 he was named Director of Aircraft Production Resources Agency, in addition to his duties with AMC. He was promoted to the rank of major general in December 1953. For his work in World War II he was awarded the Legion of Merit for "his brilliant work in formulating and implementing improved methods of maintaining production control of supply items."

When he graduated from the New York Military Academy in 1920 he was at the top of his class. In a sense he never stepped down from that height during the rest of his life. He applied himself vigorously and unselfishly to the jobs he had to do and the results he produced attested to his perseverance and ability.

Serious in his manner and conversation, he, nevertheless, possessed a ready, whimsical smile—an index to his understanding of human nature and human beings. I know of few other men able to do a difficult, seri-

ous job and enjoy it as Kern Metzger did. All his friends and those who had only a slight association with Kern Metzger have reflected upon their private memories of him since his sudden passing and know the meaning of their sorrow and the depth of their loss.

THE NORTH DAKOTA CLEAN GRAIN PROGRAM

Mr. LANGER. Mr. President, I ask unanimous consent to have printed in the body of the RECORD a letter, under date of June 22, 1955, which I have received from Mr. George P. Larrick, Commissioner of Food and Drugs.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE,
FOOD AND DRUG ADMINISTRATION,
Washington, D. C., June 22, 1955.

HON. WILLIAM LANGER,
United States Senate.

DEAR SENATOR LANGER: I have been informed that Governor Brunsdale of your State plans to issue a proclamation on June 23, proclaiming the week of July 11-16, 1955, as North Dakota Clean Grain Week. I have received a letter from Mr. Wayne J. Colberg, extension entomologist at your State College Station, Fargo, N. Dak., enclosing some material concerning the plans for the Clean Grain Week and inviting us to participate in the program on the opening day.

The material submitted by Mr. Colberg shows that a State committee to prevent contamination of food and grain, and the North Dakota Agricultural College have been quite active in disseminating information to farmers and elevator operators about the clean grain program. The people of North Dakota should be congratulated for this forward step in grain sanitation. It is an example that all other grain-producing States might well emulate. We think that Mr. Colberg and Governor Brunsdale, the Future Farmers of America, the 4-H groups, and the others who have been active in this progressive program in North Dakota should be commended.

I am writing similar letters to other members of the North Dakota delegation.

Sincerely yours,

GEO. P. LARRICK,
Commissioner of Food and Drugs.

HOME RULE FOR THE DISTRICT OF COLUMBIA

Mr. NEELY. Mr. President, Moritz Retzsch, a distinguished German illustrator of the works of Goethe and Shakespeare, gave to the world a notable allegorical drawing entitled, "The Chess Players." One of these is a noble young man, representing the genius of humanity; the other is Satan, representing the spirit of evil. The game is played on a huge sarcophagus. The stakes, which Satan is shown to be winning, are the souls of men.

Mr. President, a game of political chess of everlasting, worldwide importance is now in progress in San Francisco, in the convention of 60 members of the United Nations, who are celebrating the 10th anniversary of the signing of the organization's great charter—a document as immortal as Magna Charta, the American Declaration of Independence, or our cherished American Bill of Rights.

The present game is preparatory to an even more vital one that will be played in Geneva next month by the representatives of the United States, Great Britain, France, and Russia. During these contests, the representatives of Russia and her satellites will sit on one side of the board, which we all hope will not be a sarcophagus, and the representatives of the free nations of the world will sit on the other. The object of the games in both San Francisco and Geneva will be to determine whether the human race shall, for generations to come, be blessed with democratic government and the justice, liberty, and happiness of which it is the progenitor, or be cursed with autocratic tyranny and all the horrors of war, slavery, and misery which accompany it as inevitably as a shadow follows the substance by which it is made.

In the San Francisco game Russia's farseeing, resourceful, tireless Mr. Molotov has, so far as the United States is concerned, an advantage which, if the game were poker instead of chess, would be comparable to the holding of four aces or a straight flush. It is in the power of the Senate immediately to diminish this communistic advantage. And for prompt action in this matter, please let me earnestly appeal. The advantage in question lies in the fact that, both in San Francisco and Geneva, the spokesmen for communism can, and doubtless will, in effect, say to the representative of this Nation: "You send millions of your sons to Europe, Asia, Africa, and the islands of the most distant seas, to fight for the alleged purpose of establishing or preserving democratic government. And you spend billions of dollars a year in your ceaseless struggle for the adoption of the democratic philosophy of life by all the races and tribes of men. But notwithstanding these indisputable facts, for three-quarters of a century your country has maintained the most undemocratic National Capital in the world. For 75 years your country has denied the city of Washington even the semblance of the democratic self-government you have persistently and passionately preached. For 75 years your Nation has prohibited the residents of the city of Washington from voting for President, Congressman, mayor, a member of council, a member of a school board, or even for a dogcatcher. For 75 years your Government has subjected the residents of the city of Washington to taxation without representation—one of the outrages against which your Founding Fathers fought the Revolutionary War to famous American victory and thereby won glorious American independence."

And if the Russian spokesmen happen to be familiar with the Holy Bible, they will probably support their unanswerable argumentation with the following words of the Divine Master:

Thou hypocrite, first cast out the beam out of thine own eye; and then shalt thou see clearly to cast out the mote out of thy brother's eye.

Mr. President, let us promptly cast the beams from our eyes, and prudently extricate ourselves from our utterly ridiculous and intolerable situation. The

means of achieving this consummation have, for many weeks, been before us, as the following facts conclusively attest.

The Senate Committee on the District of Columbia, on the 28th day of last April, unanimously reported Senate bill 669 to this body with the recommendation that it be passed. The bill was promptly placed upon the Senate calendar, and on the 13th of May it was called for consideration. This was prevented by an objection from the floor.

Mr. Ganson Purcell, chairman of the board of the Washington Home Rule Committee, in a letter recently written to me pertinently comments on the present status of this measure as follows:

The only practical way that the home-rule bill can now be brought to a vote in the Senate is by an agreement of the Senate leaders of both parties. The present session is approaching a close. If action is to be taken during this session, it must be done before the last minute rush of legislation which always takes place around the end of the fiscal year and toward the end of a congressional session.

Mr. President, in 1949 and in 1951 bills similar to the one before us were passed by the Senate.

Mr. LANGER. Mr. President, will the Senator yield for a question?

Mr. NEELY. I yield.

Mr. LANGER. I entered the Chamber only a moment ago, and did not hear the opening of the Senator's speech. Did not the Republican and Democratic platforms both pledge home rule for the District of Columbia?

Mr. NEELY. Mr. President, please let me thank the distinguished Senator from North Dakota, who has long been a champion of home rule for the District of Columbia, for his inquiry, to which it will afford me genuine pleasure to respond.

The 1952 Republican platform says:

We favor self-government and national suffrage for the residents of the Nation's Capital.

The Democratic 1952 relevant platform declaration is in these words:

We favor immediate home rule and ultimate national representation for the District of Columbia.

Let me entreat the leadership of the Senate to provide for a vote on the home-rule bill at the earliest possible moment. And let the Senate pass this democratic measure, and thereby relieve itself of responsibility for the disfranchisement of the people of Washington who are the peers of the best of the civilized world. Let it do this, to the end that this Nation may be exonerated of the shocking stigma of maintaining the most undemocratic capital on the globe, to the end that Washington, like every inch of other American soil, may at last become a parcel and part of the land of the free and the home of the brave.

The ACTING PRESIDENT pro tempore. The unfinished business cannot automatically come before the Senate until 2 o'clock, unless by motion or unanimous consent.

EXECUTIVE SESSION

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. If there be no reports of committees, the clerk will state the nominations on the Executive Calendar.

BOARD OF PAROLE

The legislative clerk read the nomination of Gerald E. Murch to be a member of the Board of Parole.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of William F. Howland, Jr., to be a member of the Board of Parole.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is confirmed.

Mr. JOHNSON of Texas. Mr. President, I ask that the President be immediately notified of the nominations confirmed this day.

The ACTING PRESIDENT pro tempore. Without objection, the President will be notified forthwith.

LEGISLATIVE SESSION

Mr. JOHNSON of Texas. I move that the Senate resume the consideration of legislative business.

The motion was agreed to; and the Senate resumed the consideration of legislative business.

MISS HELEN KELLER

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Order No. 621, Senate Concurrent Resolution 39.

The ACTING PRESIDENT pro tempore. The Secretary will state the resolution by title.

The LEGISLATIVE CLERK. A concurrent resolution (S. Con. Res. 39) recognizing, on the occasion of her 75th birthday, June 27, 1955, the efforts of Miss Helen Keller in behalf of physically handicapped persons throughout the world.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Texas?

There being no objection, the Senate proceeded to consider the resolution.

Mr. JOHNSON of Texas. Mr. President, the junior Senator from Alabama [Mr. SPARKMAN] and both Senators from Connecticut joined in the submission of the resolution. The Senator from Alabama is detained from the Chamber at the moment, but he has asked that the resolution be considered immediately, and the minority leader is agreeable to that procedure. I hope the resolution will be agreed to.

Mr. KILGORE. Mr. President, I have prepared a statement with respect to Senate Concurrent Resolution 39, and I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR KILGORE

This proposed concurrent resolution would recognize, on the occasion of her 75th birthday on June 27, 1955, the efforts of Miss Helen Keller in behalf of physically handicapped persons throughout the world, and to direct that appropriate greetings be forwarded by the Secretary of the Senate to Miss Helen Keller on her 75th birthday.

The committee deems it appropriate to recognize that this remarkable woman, stricken deaf and blind in infancy, has for more than 50 years tirelessly devoted herself to the battle for the economic, cultural, and social advancement of the physically handicapped throughout the world, making her own conquests of disabilities a symbol of hope for millions.

The committee is in hearty accord with the spirit of this resolution, and deems it fitting tribute to Miss Keller to recommend that appropriate greetings be sent on the occasion of her 75th birthday.

Accordingly, the committee recommends that Senate Concurrent Resolution 39 be favorably considered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution was agreed to as follows:

Resolved by the Senate (the House of Representatives concurring), That appropriate recognition be made of the vast contributions of Miss Helen Keller to the well-being of all humanity; and be it further

Resolved, That appropriate greetings be forwarded by the Secretary of the Senate to her on her 75th birthday, June 27, 1955; and be it further

Resolved, That the governors of States, mayors of cities, and heads of other instrumentalities of government, as well as leaders of industry, educational and religious groups, labor, veterans, women, farm, scientific, civic, and professional bodies, and all other organizations and individuals at interest, are invited to participate in this recognition of Miss Helen Keller by making her 75th anniversary the occasion for reaffirmation of their determination to assist in the improvement and expansion of facilities for the relief, education, and rehabilitation of the physically handicapped.

The preamble was agreed to, as follows:

Whereas Helen Keller will celebrate her 75th birthday on June 27, 1955; and

Whereas this remarkable woman, stricken deaf and blind in infancy, has for more than 50 years tirelessly devoted herself to the battle for the economic, cultural, and social advancement of the physically handicapped throughout the world, making her own conquest of disabilities a symbol of hope for millions; and

Whereas in her long and faithful association with the American Foundation for the Blind and the American Foundation for Overseas Blind she has traveled widely in the United States of America, and to more than a score of nations throughout the world; and

Whereas in all these travels she has inspired immeasurable progress in services to the blind, the deaf, and the deaf-blind, and has won countless new friends for the United States of America and the cause of democracy; and

Whereas Congress and the Chief Executive have expressed deep concern in improvement of conditions among the physically handicapped, and have initiated constantly expanding programs to this worthwhile end: Now, therefore, be it.

DISQUALIFICATION OF CERTAIN FORMER OFFICERS AND EMPLOYEES OF THE DISTRICT OF COLUMBIA

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Order No. 630, S. 48.

The ACTING PRESIDENT pro tempore. The Secretary will state the bill by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 48) to provide for the disqualification of certain former officers and employees of the District of Columbia in matters connected with former duties.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, the purpose of this bill is to disqualify certain former officers and employees of the District of Columbia from participating in matters connected with their former duties. This legislation is similar to section 284, title 18, of the United States Code, which applies to former employees in any agency of the United States.

I understand the bill was reported unanimously by the committee.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That whoever, after the effective date of this act, having served as a commissioner of the Public Utilities Commission of the District of Columbia, as a member of the Alcoholic Beverage Control Board of the District of Columbia, as Superintendent or Deputy Superintendent of Insurance of the District of Columbia, or under a permanent or indefinite appointment as an employee of such Commission, Board, or Superintendent, within 2 years after the time when such employment or service has ceased, knowingly prosecutes or acts as counsel, attorney, or agent for anyone in connection with any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter involving any subject matter directly connected with which such person was so employed or performed duty, shall be fined not more than \$2,000 or imprisoned not more than 2 years, or both.

Sec. 2. This act shall take effect 60 days after the date of its enactment.

INCREASE IN ANNUITIES OF ANNUITANTS UNDER THE FOREIGN SERVICE RETIREMENT SYSTEM

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Order No. 625, S. 1287.

The ACTING PRESIDENT pro tempore. The Secretary will state the bill by title.

The LEGISLATIVE CLERK. A bill (S. 1287) to make certain increases in the annuities of annuitants under the Foreign Service retirement and disability system.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, the purpose of the bill is to increase the annuities of Foreign Service officers who retired prior to July 1, 1949. The increases will range from 25 percent for those retiring before July 1, 1945, to 5 percent for those retiring between July 1, 1948, and July 1, 1949. Provisions are made for commensurate increases in survivor benefits.

Mr. ELLENDER. Mr. President, how much will the bill cost?

Mr. MANSFIELD. At the present time there are 450 annuitants under the Foreign Service retirement and disability system. The pending bill will affect only 256 of these. The cost of the increase is estimated at \$117,660 for the first year.

Mr. ELLENDER. How much will it cost thereafter?

Mr. MANSFIELD. The 20-year cost of the increase, based on the life expectancy of this group, will be about \$1,440,000.

Mr. ELLENDER. How much do these officials contribute to the system?

Mr. MANSFIELD. They make a much more sizable contribution, on a percentage basis, than we do.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be offered, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the annuity of an annuitant under the Foreign Service retirement and disability system pursuant to the act of May 24, 1924 (45 Stat. 140), as amended, or the Foreign Service Act of 1946 (60 Stat. 999), shall be increased the first day of the second month following enactment of this act in accordance with the following rules:

If the annuitant was formerly a participant in the system, the annuity to which he is entitled shall be increased—

(a) by 25 percent if his retirement took place before July 1, 1945;

(b) by 22.5 per cent if his retirement took place on or after July 1, 1945, but before July 1, 1946;

(c) by 17.5 percent if his retirement took place on or after July 1, 1946, but before July 1, 1947;

(d) by 11.25 percent if his retirement took place on or after July 1, 1947, but before July 1, 1948; and

(e) by 5 percent if his retirement took place on or after July 1, 1948, but before July 1, 1949.

Sec. 2. (a) The increase in the annuity of an annuitant who was formerly a participant in the system shall be computed on the annuity he was entitled to receive immediately prior to the effective date of Public Law 348, 82d Congress; (b) in the case of an officer who elected a reduced annuity at time of retirement and who availed himself of the restoration clause in section 821 (b) of the Foreign Service Act of 1946, as amended, such officer's annuity shall be recomputed, in the event of his wife's prior death at any time after the effective date of Public Law 348, on the basis of the full annuity to which he would have been entitled had his wife died prior to July 1, 1948.

Sec. 3. If the annuitant receives an annuity as the survivor of a former participant in the system, the increase in the annuity shall be based on the amount by which the annuity of the former participant would be increased, pursuant to sections 1 and 2 of this act, if he were still living. The increase in the annuity of such an annuitant shall bear the same ratio to the increase that would be received by the former participant as their respective annuities, computed as of a date immediately prior to the effective date of Public Law 348, 82d Congress, bear to each other.

Sec. 4. If a wife of a Foreign Service officer who retired prior to July 1, 1949, becomes an annuitant subsequent to the effective date of this act, as a result of the election made by the officer at time of retirement, such widow shall be entitled to the same increase as though she was an annuitant on the effective date of this act.

Sec. 5. In no case shall an annuity increased under this act exceed the maximum annuity payable under section 821 (a) or (b) of the Foreign Service Act of 1946, as amended.

Sec. 6. No annuity currently payable to any annuitant under the Foreign Service retirement and disability system shall be reduced as a result of the provisions of this act.

EXEMPTION FROM TAXATION OF CERTAIN PROPERTY OF THE JEWISH WAR VETERANS, U. S. A. NATIONAL MEMORIAL, INC.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Order No. 633, S. 1741.

The ACTING PRESIDENT pro tempore. The Secretary will state the bill by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 1741) to exempt from taxation certain property of the Jewish War Veterans, U. S. A. National Memorial, Inc., in the District of Columbia.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the property situated in lot numbered 131 in Elizabeth S. Moore's subdivision of lots in square numbered 153, as per plat recorded in liber 28 at folio 107 of the record of the Office of the Surveyor for the District of Columbia. Also part of lot numbered 73 in Fisher and Sharon's subdivision of square numbered 153, as per plat recorded in liber 12 at folio 171 of the records of the Office of the Surveyor for the District of Columbia, owned by the Jewish War Veterans, U. S. A. National Memorial, Inc., is hereby exempt from all taxation so long as the same is owned and occupied by the Jewish War Veterans, U. S. A. National Memorial, Inc., and is not used for commercial purposes, subject to the provisions of sections 2, 3, and 5 of the act entitled "An act to define the real property exempt from taxation in the District of Columbia," approved December 24, 1942 (56 Stat. 1091; D. C. Code, secs. 47-801b, 47-801c, and 47-801e).

Mr. JOHNSON of Texas subsequently said: Mr. President, I ask unanimous consent that the Senate reconsider the votes whereby Senate bill 1741 was ordered to be engrossed for a third reading, read the third time, and passed.

I make the request for the purpose of offering a technical amendment.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Texas? The Chair hears none, and it is so ordered. The bill is before the Senate.

Mr. JOHNSON of Texas. Mr. President, I send to the desk an amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The Secretary will state the amendment offered by the Senator from Texas.

The LEGISLATIVE CLERK. On page 1, line 6, it is proposed to strike out the period and the word "Also" and insert a semicolon and the word "and."

The ACTING PRESIDENT pro tempore. The question is on agreeing to amendment offered by the Senator from Texas.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

REPEAL OF REQUIREMENT FOR SUBMISSION OF ANNUAL REPORTS ON SALE OF ELECTRICITY IN THE DISTRICT OF COLUMBIA

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Order No. 634, S. 2176.

The ACTING PRESIDENT pro tempore. The Secretary will state the bill by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 2176) to repeal the requirement that public utilities engaged in the manufacture and sale of electricity in the District of Columbia must submit annual reports to Congress.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. The purpose of this bill is to repeal existing law that requires any public-utilities company, association, or corporation engaged in the manufacture and sale of electricity for illuminating or heating or power purposes, or either, in the District of Columbia to submit annual reports to Congress. The law requiring the filing of these reports was adopted March 2, 1907. Since that time, however, Congress has delegated the supervision of public-service corporations such as the Potomac Electric Power Co. to the Public Utilities Commission of the District of Columbia, created by law in 1913, and to the Federal Power Commission by a law enacted in 1938.

The committee which carefully considered the proposed legislation feels it is desirable that it be enacted.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the last paragraph under the center heading "Electrical Department" of the act entitled "An act making appropriations to provide for the

expenses of the government of the District of Columbia for the fiscal year ending June 30, 1908, and for other purposes," approved March 2, 1907 (D. C. Code, sec. 43-1109), is amended by striking out "*Provided, That any company,*" and all that follows down through "December 31, 1906."

PREMARITAL EXAMINATION OF APPLICANTS FOR MARRIAGE LICENSES IN THE DISTRICT OF COLUMBIA

Mr. JOHNSON of Texas. I ask unanimous consent that the Senate proceed to the consideration of Order No. 639, S. 182.

The ACTING PRESIDENT pro tempore. The Secretary will state the bill by title.

The LEGISLATIVE CLERK. A bill (S. 182) to require a premarital examination of all applicants for marriage licenses in the District of Columbia.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the District of Columbia with amendments on page 4, line 3, after the word "issue", to insert:

Any person who by law is validly able to obtain a marriage license in the District of Columbia shall be deemed capable of giving consent to any examinations and tests required by this act.

On page 5, after line 16, to insert:

SEC. 6. As used in this act the terms "Health Department" and "Health Department of the District of Columbia" shall mean the Health Department of the District of Columbia, or the office, offices, agency, or agencies succeeding to the functions of the Health Department of the District of Columbia pursuant to the Reorganization Plan No. 5 of 1952; and the terms "Director of Public Health of the District of Columbia" and "health officer" shall mean the Director of Public Health of the District of Columbia or the officer or officers succeeding to his functions pursuant to Reorganization Plan No. 5 of 1952.

On page 6, line 4, to change the section number from "6" to "7", so as to make the bill read:

Be it enacted, etc., That it shall be the duty of the clerk of the United States District Court for the District of Columbia, before issuing any license to solemnize a marriage, to require, with respect to such party desiring to marry, a certificate from a physician licensed to practice medicine or osteopathy in the District of Columbia or in any State or Territory of the United States, or in the case of any member of the Armed Forces of the United States, from a commissioned medical officer of the United States Army, Navy, Air Force, or Public Health Service; *Provided, That* each such certificate shall first be approved by the Director of Public Health of the District of Columbia or by his agent designated by him in writing. Such certificate shall state (1) that such party has submitted to an examination (including a standard serological test and such other standard laboratory tests as may be necessary for the discovery of syphilis) made on a day specified in the certificate, and (2) that, in the opinion of such physician, based on such person's medical history and on clinical and laboratory evidence, the person either is not infected with syphilis, or is not in a stage thereof which may become

communicable to the marital partner. Such certificate shall be signed in the presence of the physician by the person examined.

SEC. 2. The physician's certificate required to be filed by the first section of this act shall be made on a form (referred to in this act as the "certificate form") to be prepared and distributed by the Health Department of the District of Columbia and shall contain on the same form a statement, from the person in charge of the laboratory making the tests, or from some other person in the laboratory authorized to make such statements, setting forth the name of the tests, the date made, and the name and address of the person whose blood or other specimen was tested; but such statement shall not indicate the results of the tests. Upon a separate form also prepared and distributed to laboratories approved by the Health Department and designated as "premarital," a detailed report of the laboratory tests, showing the results of the tests, shall be made out by the laboratory in duplicate. One copy of this detailed report shall be transmitted by the laboratory to the physician making the examination and the other copy to the Health Department. Such "premarital" laboratory report forms shall be held by the physician and by the Health Department in absolute confidence and shall not be opened to public inspection except on order of a justice or judge of a court of competent jurisdiction requiring its production by the Health Department.

SEC. 3. (a) For the purpose of this act a standard laboratory test shall be any laboratory test for syphilis (1) approved by the health officer of the District of Columbia, and (2) made at a laboratory approved by such health officer. Any laboratory operated by any State or Territory of the United States, or by the United States Army, Navy, Air Force, or Public Health Service, shall be deemed to be an approved laboratory for the purposes of this act. To be valid such tests shall be made not more than 30 days before the issuance of the marriage license to which they apply. Such laboratory tests as are required by this act shall be made on request without charge at the laboratory of the Health Department of the District of Columbia.

(b) No marriage license issued after the effective date of this act shall be valid more than 30 days after the date of issue. Any person who by law is validly able to obtain a marriage license in the District of Columbia shall be deemed capable of giving consent to any examinations and tests required by this act.

SEC. 4. Because of an emergency or other cause shown by affidavit or other proof, a judge of the United States District Court for the District of Columbia, if satisfied by medical or other testimony or both that neither the health of the individuals nor the public health and welfare will be injuriously affected thereby, may make an order, on joint application of both of the parties desiring the marriage license, dispensing with those requirements which relate to the filing with the clerk of such court and the Health Department of the physicians' certificates and the "premarital" laboratory reports or, such certificates and reports having been filed, extending the 30-day period following the examinations and tests for the issuance of such license to not later than 90 days after such examinations and tests. The order shall be accompanied by a memorandum in writing from the judge, reciting his reasons for granting the order. The order and the accompanying memorandum shall be filed with such clerk, and the latter shall thereupon accept the application for the marriage license and issue the same, if the applicants are otherwise qualified by law to contract matrimony. The clerk and his employees shall hold such memorandum of the judge in absolute confidence and it shall not be open to inspection, ex-

cept on order of a justice or judge of a court of competent jurisdiction requiring its production.

SEC. 5. Any applicant for a marriage license, any physician, or any representative of a laboratory who shall knowingly misrepresent any of the facts called for by the certificate form or the "premarital" laboratory report, or any person who shall otherwise fail to comply with any provision of this act, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than \$500, or imprisonment for not more than 6 months, or both.

SEC. 6. As used in this act the terms "Health Department" and "Health Department of the District of Columbia" shall mean the Health Department of the District of Columbia, or the office, offices, agency, or agencies succeeding to the functions of the Health Department of the District of Columbia pursuant to the Reorganization Plan No. 5 of 1952; and the terms "Director of Public Health of the District of Columbia" and "health officer" shall mean the Director of Public Health of the District of Columbia or the officer or officers succeeding to his functions pursuant to Reorganization Plan No. 5 of 1952.

SEC. 7. This act shall take effect 90 days after the date of its enactment.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the amendments be agreed to en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the amendments are agreed to en bloc.

Mr. JOHNSON of Texas. Mr. President, the purpose of this bill is to require the clerk of the United States District Court for the District of Columbia, before issuing any marriage license, to require from each party a certificate from a physician licensed to practice medicine or osteopathy, stating that he or she has submitted to a test for the discovery of syphilis, and that either or both parties are not infected with syphilis, or are not in a stage thereof which may become communicable to the marital partner.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

REPEAL OF PROHIBITION AGAINST DECLARATION OF STOCK DIVIDENDS BY PUBLIC UTILITIES IN THE DISTRICT OF COLUMBIA

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Order No. 635, S. 2177.

The ACTING PRESIDENT pro tempore. The Secretary will state the bill by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 2177) to repeal the prohibition against the declaration of stock dividends by public utilities operating in the District of Columbia.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the District of Columbia with an amendment on page 2, after line 2, to insert:

SEC. 2. Paragraph 73 of section 8 of the act entitled "An act making appropriations

to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes," approved March 4, 1913 (sec. 43-802, D. C. Code; 37 Stat. 990), be amended to read as follows: "That no public utility shall hereafter issue any stocks, stock certificates, bonds, mortgages, or any other evidences of indebtedness payable in more than 1 year from date, or pay any stock, bond, or scrip dividend, until it shall have first obtained the certificate of the Commission showing authority for such issue from the Commission."

So as to make the bill read:

Be it enacted, etc., That paragraph 75 of section 8 of the act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes," approved March 4, 1913 (D. C. Code, secs. 43-804), which provides that no public utility shall declare any stock, bond, or scrip dividend or divide the proceeds of the sale of any stock, bond, or scrip among its stockholders, is hereby repealed.

SEC. 2. Paragraph 73 of section 8 of the act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes," approved March 4, 1913 (sec. 43-802, D. C. Code; 37 Stat. 990), be amended to read as follows: "That no public utility shall hereafter issue any stocks, stock certificates, bonds, mortgages, or any other evidences of indebtedness payable in more than 1 year from date, or pay any stock, bond, or scrip dividend, until it shall have first obtained the certificate of the Commission showing authority for such issue from the Commission."

Mr. JOHNSON of Texas. Mr. President, the purpose of this bill is to repeal paragraph 75 of the act creating the Public Utilities Commission of the District of Columbia, approved March 4, 1913. This paragraph provides that "no public utility shall declare any stock, bond, or scrip dividend or divide the proceeds of the sale of any stock, bond, or scrip among its stockholders." The proposed bill would repeal this provision, but the committee is of the opinion that a stock dividend would still require approval of the Public Utilities Commission under the provisions of paragraph 73. However, to remove any doubt as to such authority, the committee has recommended the amendment which appears in the bill as reported.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

RATES OF COMPENSATION OF MEMBERS OF CERTAIN EXAMINING AND LICENSING BOARDS IN THE DISTRICT OF COLUMBIA

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to consider Order No. 632, S. 1739.

The ACTING PRESIDENT pro tempore. The Secretary will state the bill by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 1739) to authorize the Commissioners of the District of Columbia to fix rates of compensation of members of certain examining and licensing boards and commissions, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, the bill would authorize the Commissioners of the District of Columbia to fix the rate of compensation or honorarium to be paid to members of examining and licensing boards, commissions, and committees and to cause all funds collected by such boards, commissions, and committees for holding examinations and issuing licenses to be deposited to the credit of the District of Columbia.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That (a) notwithstanding the provisions set forth in the acts mentioned in section 2 of this act, the Commissioners of the District of Columbia are authorized and empowered to determine from time to time the honorariums to be paid to the members of the boards, commissions, and committees appointed and established by authority of such acts, such authority to include the power to determine the total amount per annum of any such honorarium.

(b) The funds (including bonds or other securities referred to in section 10 of the act approved December 20, 1944, as amended July 5, 1952) derived from fees and charges for examinations, licenses, certificates, registrations, or for any other service rendered by any such board, commission, or committee, remaining after the payment, or provision made for payment of all obligations of the respective boards, commissions, and committees outstanding as of June 30, 1954, shall be deposited in the Treasury to the credit of the District of Columbia and on and after the effective date of this act all moneys collected for such fees and charges shall be paid into the Treasury to the credit of the District of Columbia.

(c) Notwithstanding the limitation of any other law or regulation to the contrary, any person heretofore or hereafter appointed as a member of any such board, commission, or committee may receive his honorarium as well as any retired pay, retirement compensation, or annuity to which such member may be entitled on account of previous service rendered to the United States or District of Columbia Governments.

(d) As used in this act, "honorarium" means the fee, per diem, compensation, or any amount paid to any member of any such board, commission, or committee for service as such member. Such service shall not be deemed to be service within the meaning of the Civil Service Retirement Act of May 29, 1930, as amended.

SEC. 2. This act shall apply to the boards, commissions, and committees and the members thereof, respectively, established pursuant to the following acts:

(a) The act entitled "An act to regulate steam engineering in the District of Columbia," approved February 28, 1887 (24 Stat. 427, ch. 272), as amended (title 2, ch. 15, D. C. Code, 1951 edition).

(b) The act entitled "An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes," approved May 7, 1906 (34

Stat. 175, ch. 2084), as amended (title 2, ch. 6, D. C. Code, 1951 edition).

(c) The act entitled "An act to regulate the practice of veterinary medicine in the District of Columbia," approved February 1, 1907 (34 Stat. 870, ch. 442; title 2, ch. 8, D. C. Code, 1951 edition).

(d) The act entitled "An act to define the term of 'registered nurse' and to provide for the registration of nurses in the District of Columbia," approved February 9, 1907 (34 Stat. 887, ch. 913), as amended (title 2, ch. 4, D. C. Code, 1951 edition).

(e) The act entitled "An act to regulate the practice of podiatry in the District of Columbia," approved May 23, 1918 (40 Stat. 560, ch. 82), as amended (title 2, ch. 7, D. C. Code, 1951 edition).

(f) The act entitled "An act to create a board of accountancy for the District of Columbia, and for other purposes," approved February 17, 1923 (42 Stat. 1261, ch. 94), as amended (title 2, ch. 9, D. C. Code, 1951 edition).

(g) The act entitled "An act to regulate the practice of optometry in the District of Columbia," approved May 28, 1924 (43 Stat. 177, ch. 202; title 2, ch. 5, D. C. Code, 1951 edition).

(h) The act entitled "An act to provide for the examination and registration of architects and to regulate the practice of architecture in the District of Columbia," approved December 13, 1924 (43 Stat. 713, ch. 9), as amended (title 2, ch. 10, D. C. Code, 1951 edition).

(i) The act entitled "An act to regulate the practice of the healing art to protect the public health in the District of Columbia," approved February 27, 1929 (45 Stat. 1326, ch. 352), as amended (title 2, ch. 1, D. C. Code, 1951 edition).

(j) The act entitled "An act to define, regulate, and license real-estate brokers, business chance brokers, and real-estate sales; to create a Real Estate Commission in the District of Columbia; to protect the public against fraud in real-estate transactions; and for other purposes," approved August 25, 1937 (50 Stat. 787, ch. 760), as amended (title 45, ch. 14, D. C. Code, 1951 edition).

(k) The act entitled "An act to provide for the examination and licensing of those engaging in the practice of cosmetology, in the District of Columbia," approved June 7, 1938 (52 Stat. 611, ch. 321; title 2, ch. 13, D. C. Code, 1951 ed.).

(l) The act entitled "An act to regulate barbers in the District of Columbia, and for other purposes," approved June 7, 1938 (52 Stat. 620, ch. 322), as amended (title 2, ch. 11, D. C. Code, 1951 ed.).

(m) The act entitled "An act to amend the act for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people from empiricism in relation thereto, approved June 6, 1892, and acts amendatory thereof," approved July 2, 1940 (54 Stat. 716, ch. 513; title 2, ch. 3, D. C. Code, 1951 ed.).

(n) The act entitled "An act to regulate boxing contests and exhibitions in the District of Columbia, and for other purposes," approved December 20, 1944 (58 Stat. 823, ch. 612), as amended (title 2, ch. 12, D. C. Code, 1951 ed.).

(o) The act entitled "An act defining and regulating the practice of the profession of engineering and creating a Board of Registration for Professional Engineers in the District of Columbia," approved September 19, 1950 (64 Stat. 854, ch. 953, title 2, ch. 18, D. C. Code, 1951 ed.).

(p) Section 7 of the act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes, approved July 1, 1902 (32 Stat. 622, ch. 1352), as amended and supplemented (title 47, ch. 23, D. C. Code, 1951 ed.).

(q) The first section of the act entitled "An act to grant additional powers to the Commissioners of the District of Columbia, and for other purposes," approved December 20, 1944 (58 Stat. 819, ch. 611), as amended (sec. 1-244, D. C. Code, 1951 ed.).

(r) The act entitled "An act to regulate plumbing and gas fitting in the District of Columbia," approved June 18, 1898 (30 Stat. 477, ch. 467), as amended (title 2, ch. 14, D. C. Code, 1951 ed.).

Sec. 3. Any fee or charge paid for an examination, license, certificate, or registration pursuant to any act mentioned in section 2 of this act shall, if not earned, be refunded upon application therefor: *Provided*, That application for refund is made not later than the end of the third fiscal year following the fiscal year in which such fee or charge was made.

Sec. 4. The Commissioners are authorized, after a public hearing, to fix and change from time to time the period for which any license, certificate, or registration authorized by any act set forth in section 2 of this act may be issued. Upon change of a license, certificate, or registration period, the fee for any such license, certificate, or registration shall be prorated on the basis of the time covered.

Sec. 5. Whenever any board, commission, or committee, other than the Commissioners, is mentioned in this act, such board, commission, or committee shall be deemed to be the board, commission, or committee or other agency succeeding to the functions of the board, commission, or committee, so mentioned, pursuant to Reorganization Plan No. 5 of 1952.

Sec. 6. There is hereby authorized to be appropriated out of the revenues of the District of Columbia such sums as may be necessary to pay the expenses of administering the act listed in section 2 of this act, including the expenses of the Department of Occupations and Professions, established pursuant to authority contained in Reorganization Plan No. 5 of 1952.

REVIVAL OF SECTION 3 OF THE DISTRICT OF COLUMBIA PUBLIC SCHOOL FOOD SERVICES ACT

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent for the present consideration of Calendar No. 636, Senate bill 665.

The ACTING PRESIDENT pro tempore. The Secretary will state the bill by title.

The LEGISLATIVE CLERK. A bill (S. 665) to revive section 3 of the District of Columbia Public School Food Services Act.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, the purpose of this bill is to revive section 3 of the act establishing a Department of Food Services in the Public Schools of the District of Columbia—Public Law 159, 82d Congress—and to repeal section 3 of the act increasing the salaries of the Metropolitan Police, the United States Park Police, the White House Police, members of the Fire Department of the District of Columbia, and employees of the Board of Education of the District of Columbia.

Prior to the act of October 8, 1951, which established the Department of Food Services in the Public Schools of the District of Columbia, persons who

worked in the school lunchrooms were employed by the principals of the respective schools. Because the principals administered the operation of the cafeterias, the employees were not considered eligible for retirement benefits under the Civil Service Retirement Act, nor were they deemed eligible for social-security benefits, inasmuch as the Social Security Administration ruled that the public-school cafeteria operation was quasi-public in nature and could not be included under the provisions of the Social Security Act.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That, effective October 8, 1951, section 3 of the act entitled "An act to establish a Department of Food Services in the Public Schools of the District of Columbia, and for other purposes," approved October 8, 1951 (Public Law 159, 82d Cong.), is hereby revived and section 3 of the act entitled "An act to increase the salaries of the Metropolitan Police, the United States Park Police, the White House Police, members of the Fire Department of the District of Columbia and employees of the Board of Education of the District of Columbia," approved October 25, 1951 (Public Law 207, 82d Cong.), is hereby repealed.

CONSTRUCTION OF CIVIC AUDITORIUM IN THE DISTRICT OF COLUMBIA

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent for the present consideration of Calendar No. 631, House bill 1825.

The ACTING PRESIDENT pro tempore. The Secretary will state the bill by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H. R. 1825) creating a Federal commission to formulate plans for the construction in the District of Columbia of a civic auditorium, including an Inaugural Hall of Presidents, and a music, fine arts, and mass communications center.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, the purpose of this bill is to establish the District of Columbia Auditorium Commission for the purpose of formulating plans for the construction in the District of Columbia of a civic auditorium, including an Inaugural Hall of Presidents and a music, fine arts, and mass communications center.

The Commission would be composed of 21 members as follows: 7 persons appointed by the President of the United States, 7 persons by the President of the Senate, and 7 persons appointed by the Speaker of the House of Representatives.

Mr. ELLENDER. Mr. President, will the Senator from Texas yield?

Mr. JOHNSON of Texas. I yield.

Mr. ELLENDER. Will the Senator state how the project is to be financed?

Mr. JOHNSON of Texas. By an appropriation.

Mr. ELLENDER. Would the money come from District of Columbia funds?

Mr. JOHNSON of Texas. I gather it would come from the Treasury.

Mr. ELLENDER. Is it the purpose to recommend that the auditorium be paid for out of funds of the Treasury?

Mr. JOHNSON of Texas. I do not know what will be recommended before action is taken, but the purpose of the resolution is to appoint a commission to select a suitable site for a civic auditorium, to procure such plans and designs and make such surveys and estimates of the cost as may be deemed advisable, and to endeavor particularly to formulate a method of financing the project on a self-liquidating basis. I would hope, believe, and trust that the Commission would be composed of a caliber of people who would recognize the congressional intent and who would attempt to evolve some plan that would be self-liquidating. Until I saw the plan I would not know whether it would be self-liquidating. Sometimes the members of such commissions have to come back to Congress and seek another method.

Mr. ELLENDER. The Senator will recall that in the past there have been several commissions that desired the erection of auditoriums, the cost to come out of the Treasury. My hope is the project will be either self-liquidating or that the money will be taken out of District funds.

Mr. JOHNSON of Texas. The distinguished Senator is always on sound ground, and I associate myself with the hope which he has expressed. That is exactly the purpose of the distinguished and able Senator from Michigan [Mr. McNAMARA]. If he cares to associate himself with the statements which have been made, he may do so. I think the program outlined is a very good one, and I hope the Commission will carry out the intent, or what I believe to be the intent, of the Senator from Michigan.

Mr. McNAMARA. Mr. President, will the Senator from Texas yield?

Mr. JOHNSON of Texas. I yield.

Mr. McNAMARA. Mr. President, I would certainly enjoy associating myself with the remarks of the Senator from Texas and the Senator from Louisiana. The bill spells out the intent, and, to the best of our ability, we will work toward that end.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, and was read the third time.

Mr. JOHNSON of Texas. Mr. President, I think we all recognize the great need in the District of Columbia for an auditorium. The committee, I believe, has approached the problem in a very practical manner. I hope the commission which is to be appointed will recognize that Congress has certain standards which it expects to be observed. I trust that from this bill, if

it is enacted into law, there will come results for which we have been hoping for many years in this beautiful Capital of the Nation.

The ACTING PRESIDENT pro tempore. The bill having been read a third time, the question is, Shall it pass?

The bill (H. R. 1825) was passed.

EXTENSION OF PERIOD OF AUTHORIZATION OF APPROPRIATIONS FOR HOSPITAL CENTER IN THE DISTRICT OF COLUMBIA

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 637, Senate bill 666.

The ACTING PRESIDENT pro tempore. The Secretary will state the bill by title.

The LEGISLATIVE CLERK. A bill (S. 666) to extend the period of authorization of appropriations for the hospital center and facilities in the District of Columbia.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, the purpose of this bill is to amend the act of August 7, 1946, so that the period during which appropriations may be made to carry out the provisions of the act is extended from June 30, 1955, to June 30, 1957.

This measure does not involve the expenditure of any funds. It would remove a technical objection to the consideration of subsequent requests for appropriations, within the amount originally authorized, by extending the period of authorization of appropriations.

Mr. ELLENDER. Mr. President, will the Senator from Texas yield?

Mr. JOHNSON of Texas. I yield.

Mr. ELLENDER. Is this an extension of the entire appropriation?

Mr. JOHNSON of Texas. It is my understanding that it is only for the hospital center and facilities in the District of Columbia.

Mr. ELLENDER. Yes, I know; but, as I recall, a certain amount was fixed for the cost of the facility.

Mr. JOHNSON of Texas. I think it is for the entire project.

Mr. ELLENDER. Is any increase contemplated?

Mr. JOHNSON of Texas. None of which I am aware.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 666) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That section 6 of the act of August 7, 1946 (60 Stat. 897), as amended, entitled "An act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, to authorize the making of grants for hospital facilities to private agencies in the District of Columbia, to provide a basis for repayment to the Government by the Commissioners of the District of Colum-

bia, and for other purposes," is further amended by substituting "June 30, 1957" for "June 30, 1955."

DESIGNATION OF CERTAIN DISTRICT OF COLUMBIA EMPLOYEES TO PROTECT LIFE AND PROPERTY IN AND ON CERTAIN BUILDINGS AND GROUNDS

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 638, Senate bill 1275.

The ACTING PRESIDENT pro tempore. The Secretary will state the bill by title.

The LEGISLATIVE CLERK. A bill (S. 1275) to authorize the Commissioners of the District of Columbia to designate employees of the District to protect life and property in and on the buildings and grounds of any institution located upon property outside of the District of Columbia acquired by the United States for District sanitoriums, hospitals, training schools, and other institutions.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the District of Columbia, with an amendment, on page 3, line 5, after the word "deposit", to strike out "or" and insert "of", so as to make the bill read:

Be it enacted, etc., That (a) the Commissioners of the District of Columbia may designate any employee of the District to protect life and property in and on the buildings and grounds of any institution upon land outside the District acquired by the United States for the District of Columbia for the establishment or operation thereon of any sanitorium, hospital, training school, correctional institution, reformatory, workhouse, or jail. Whenever any employee is so designated he is hereby authorized and empowered (1) to arrest under a warrant within the buildings and grounds of any such institution any person accused of having committed within any such buildings or grounds any offense against the laws of the United States, or against any rule or regulation prescribed pursuant to this act; (2) to arrest without a warrant any person committing any such offense within such buildings or grounds, in his presence; or (3) to arrest without warrant within such buildings or grounds, any person whom he has reasonable grounds to believe has committed a felony in such buildings or grounds.

(b) Any individual having the power to arrest as provided in subsection (a) of this section may carry firearms or other weapons as the Commissioners may direct or by regulation may prescribe.

SEC. 2. The Commissioners may make and amend such rules and regulations as they deem necessary for the protection of life and property in or on the buildings and grounds of any such institution.

SEC. 3. Any person who knowingly and willfully violates any rule or regulation prescribed under this act shall be guilty of a misdemeanor, and shall be fined not more than \$500 or imprisoned not more than 6 months or both.

SEC. 4. The officer on duty in command of those employees designated by the Commissioners as provided in section 1 of this act may accept deposit of collateral from any person charged with the violation of any rule or regulation prescribed under this act,

for appearance in court or before the appropriate United States commissioner; and such collateral shall be deposited with the United States commissioner sitting in the district where the offense has been committed.

SEC. 5. The Commissioners may enter into agreements with any of the States, or any political subdivision thereof, where any such institution mentioned in section 1 of this act is located, for such governmental services as the Commissioners shall deem necessary to the efficient and proper government of such institution, and they may, from time to time, agree to modifications in any such agreement: *Provided*, That where the charge for any such service is established by the laws of the State within whose territorial limits such institution is situated, the Commissioners may not pay for such service an amount in excess of the charge so established. There is hereby authorized to be appropriated such sums as may be necessary for the making of payment for services under any such agreement.

The amendment was agreed to.

Mr. JOHNSON of Texas. Mr. President, the purpose of the bill is to authorize the Commissioners of the District of Columbia to designate employees of the District as special policemen to protect life and property in and on buildings and grounds of any institution located upon property outside of the District of Columbia, acquired by the United States for District sanatoriums, hospitals, training schools, and other institutions.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment.

If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENT OF SUBVERSIVE ACTIVITIES CONTROL ACT

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of order No. 595, Senate bill 2171.

The ACTING PRESIDENT pro tempore. The Secretary will state the bill by title.

The LEGISLATIVE CLERK. A bill (S. 2171) to amend the Subversive Activities Control Act so as to provide that upon the expiration of his term of office a member of the Board shall continue to serve until his successor shall have been appointed and shall have qualified.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, this bill would add a simple amendment to the Subversive Activities Control Act so as to bring the provisions of the act respecting the tenure of the members of the Subversive Activities Control Board in line with common practice by permitting a Board member to continue to serve, upon the expiration of his term, until his successor shall have been appointed and shall have qualified.

The basic need for this amendment lies in the fact that members of the Subversive Activities Control Board often sit individually to conduct hearings. It

then becomes their duty to prepare proposed reports covering the hearings over which they presided. But without the amendment contained in S. 2171, a member whose term expires while he is in the middle of a hearing, or so soon after a hearing that he has not had time to complete his proposed report, must nevertheless stop performing any and all official functions.

The ACTING PRESIDENT pro tempore. The bill is open to amendment.

If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2171) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That subsection 12 (a) of the Subversive Activities Control Act is amended by striking out the period immediately following the word "succeed" therein, and inserting in lieu thereof a colon and the following: "*Provided, however*, That upon the expiration of his term of office a member of the Board shall continue to serve until his successor shall have been appointed and shall have qualified."

ADMINISTRATION OF OATHS AND ACKNOWLEDGEMENTS BY OFFICIALS OF FEDERAL PENAL INSTITUTIONS

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 615, House bill 4221.

The ACTING PRESIDENT pro tempore. The Secretary will state the bill by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H. R. 4221) to amend section 4004, title 18, United States Code, relating to administering oaths and taking acknowledgments by officials of Federal penal and correctional institutions.

Mr. KILGORE. Mr. President, I ask unanimous consent that a statement prepared by me in relation to House bill 4221 be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR KILGORE

This bill was introduced at the request of the Federal Bureau of Prisons.

Present law authorizes only wardens and superintendents and associate wardens and superintendents to administer oaths and take acknowledgments of prisoners. This bill extends that authority to chief clerks, record clerks, and parole officers of Federal penal and correctional institutions. It is believed that this proposed legislation would permit a more orderly handling of documents requiring oaths or acknowledgments and would result in a saving of money as represented by the time now spent in performing this service by the heads of these institutions and the custodial officers. This bill also continues the prohibition against receiving any fee for the administering of such oaths or the taking of acknowledgments.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, the purpose of the proposed legislation is to add a group of subordinate officers to the class of persons presently

authorized to administer oaths and take acknowledgments in Federal penal and correctional institutions. The purpose is to expedite such work in those institutions.

The ACTING PRESIDENT pro tempore. The bill is open to amendment.

If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

INCREASE OF CRIMINAL PENALTIES UNDER THE SHERMAN ANTITRUST ACT

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 623, H. R. 3659.

The ACTING PRESIDENT pro tempore. The Secretary will state the bill by title.

The LEGISLATIVE CLERK. A bill (H. R. 3659) to increase criminal penalties under the Sherman Antitrust Act.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, the purpose of the proposed legislation is to increase from \$5,000 to \$50,000 the maximum criminal penalties which may be imposed for violations of sections 1, 2, and 3 of the Sherman Act. Accordingly, if the bill shall be enacted, the court would be authorized to impose punishment for any such violation by a fine not exceeding \$50,000, or imprisonment for not more than 1 year, or both, in the discretion of the court.

Mr. KILGORE. Mr. President, in connection with House bill 3659, I ask unanimous consent that a statement prepared by me be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR KILGORE

This bill proposes to increase from \$5,000 to \$50,000 the maximum criminal penalties which may be imposed for violations of sections 1, 2, and 3 of the Sherman Act.

As enacted in 1890, the Sherman Act provides criminal penalties not to exceed \$5,000, or 1 year in prison, or both, for violations of sections 1, 2, or 3 of that act. Section 1 of the Sherman Act prohibits all contracts, conspiracies, and combinations in restraint of trade; section 2 prohibits monopolization and attempts to monopolize, and section 3 applies to Territories and possessions of the United States.

Sections 1, 2, and 3 of the Sherman Act each also provides for punishment by imprisonment not exceeding 1 year for any violation of the provisions thereof, and that such imprisonment may be imposed independently of, or in addition to, a fine not exceeding \$5,000.

This proposed legislation makes no change in the act with respect to the penalty of imprisonment. If the measure here proposed is enacted into law, the court would be authorized to impose punishment for any violations of the Sherman Act by a fine not exceeding \$50,000 or imprisonment for not more than 1 year, or both, in the discretion of the court. Inasmuch as most cases of violations of the Sherman Act involve the acts

of corporations rather than individuals, the punishment of imprisonment often cannot be invoked. Judges have likewise been reluctant to send individuals to jail for Sherman Act violations. In most instances, therefore, the only penalty which is imposed under the act is a fine of not more than \$5,000. This, the committee feels, is grossly inadequate. This bill, therefore, proposes to authorize the more flexible and effective punishment of a fine up to \$50,000.

The Sherman Act is the basic antitrust statute. While a civil injunctive proceeding may result in a prohibition against continuation of illegal activity, and perhaps even in dissolution or divestiture, neither criminal nor civil proceedings can accomplish restitution. Even though a company may be convicted of flagrant wrongdoing under the antitrust laws, therefore, there is no procedure for divesting it of the profits resulting from the wrongdoing. The only redress available under a criminal proceeding is a fine of up to \$5,000 on each count or a sentence of up to 1 year in prison, or both. A prison sentence in an antitrust case is highly unusual. Corporations of course cannot be imprisoned, and there seems to be little disposition on the part of courts to put a businessman in jail for keeping his plighted word not to compete with his friends.

The penalty provisions have remained unchanged in the 65 years of the Sherman Act's existence, although as early as 1900 a House committee reported that the penalty provisions were deemed insufficient. A fine of \$5,000 would not have been large even in 1890. Today, with the shrunken value of the dollar and the tremendous increase in corporate assets, such a fine is truly insignificant from a monetary point of view.

Under existing law, the deterrent effect of a \$5,000 fine against a large corporation is almost negligible, except for the stigma of conviction. Increasing the law's maximum penalty would certainly lessen the possibility that violations of the act would be profitable. It would also avoid the implication that violations of the antitrust laws are regarded as trivial in nature.

The proposed legislation has the approval of the Attorney General of the United States.

The committee is of the opinion that increasing the maximum amount of the fine to \$50,000 would aid in making the penalty itself a deterrent and would lessen the likelihood of Sherman Act violations. The committee, therefore, recommends favorable consideration of this bill, H. R. 3659, without amendment.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

RECOVERY OF DAMAGES UNDER THE ANTITRUST LAWS

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 624, House bill 4954.

The ACTING PRESIDENT pro tempore. The Secretary will state the bill by title.

The LEGISLATIVE CLERK. A bill (H. R. 4954) to amend the Clayton Act by granting a right of action to the United States to recover damages under the antitrust laws, establishing a uniform statute of limitations, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, the purpose of the proposed legislation is to amend the Clayton Act by (a) granting the United States the right to recover actual damages for injuries to its business or property by reason of violations of the antitrust laws, and (b) by establishing a uniform 4-year statute of limitations for antitrust damage suits brought by private parties or the United States.

The bill passed the House and, I understand, was reported unanimously by the Senate committee. It is a very desirable piece of proposed legislation.

Mr. KILGORE. Mr. President, I ask unanimous consent that a statement prepared by me in explanation of this bill be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR KILGORE

The purpose of this proposed legislation is to amend the Clayton Act by granting to the United States the right to recover actual damages for injuries to its business or property by reason of violations of the antitrust laws and by establishing a uniform 4-year statute of limitations for antitrust-damage suits brought by private parties or the United States.

Section 1 of the bill amends the Clayton Act so as to provide the United States with the right to recover actual damages arising out of violations of the antitrust laws. In *United States v. Cooper Corporation* (312 U. S. 600 (1941)), the Supreme Court construed section 7 of the Sherman Act to exclude the United States as a "person" who might sue for the recovery of treble damages. It was believed, up until that decision, that the existing statute, in referring to "any person," included the Government of the United States. The Supreme Court, however, ruled otherwise. Thus, the way the law is today, any individual, corporation, State, or municipality, can sue to recover damages for violations of the antitrust laws. Yet, the Government of the United States, which is by far the largest single purchaser of goods and services, cannot sue for damages it may have suffered from antitrust violations, and for losses suffered as a result of unlawful acts committed by those with whom it must deal.

The Attorney General, in recommending to the Congress the necessity for legislation such as here proposed, stated in part:

"The United States is the largest single purchaser of goods in this country and may suffer substantial losses from antitrust violations, as shown in the Cooper case, the Government sustained extensive damages as the result of certain bids submitted on motor vehicle tires and tubes. For the half year ending March 31, 1937, 18 companies submitted identical bids on 82 different sizes of tires and tubes. This identical bidding was repeated in the next half year, but with substantially higher prices than for the preceding period. When bids were submitted for the third half year period the Procurement Division of the Treasury Department, upon the advice of the Attorney General, rejected the bids and invited new ones. The new bids were the same as those rejected. In the circumstances the Treasury Department negotiated a contract with another supplier for its full requirements. In its next invitation to submit bids the Government required the bidders to warrant that the prices bid were not the result of an agreement among them. Lower bids followed. A comparison of these bids with the earlier bids showed that the United States had been injured to the extent

of \$351,158.21 during the 18-month period involved. A treble-damage action against the offending companies was instituted by the Government but was dismissed on the ground that the United States is not a 'person' within the treble-damage provision of the statute."

The committee shares the concern of the Attorney General with this present loophole in the law which prevents the United States from recovering in damages where it has suffered losses while acting as a buyer and purchasing agent. The committee believes that this amendment will remedy the present defect in the law. This legislation does not propose to authorize recovery by the United States of treble damages. The provision for the recovery of such damages by private litigants was enacted as an aid in the enforcement of the antitrust laws, constituting, as it does, a powerful additional deterrent to would-be violators. The Government, however, having primary responsibility for the enforcement of the antitrust laws, does not need a provision for the recovery of treble damages to stimulate its law enforcement activities. Nevertheless, the taxpayers are entitled to recovery of actual damages sustained by the Government as a result of antitrust violations.

The second important amendment proposed by this bill would add a new subsection to section 4 of the Clayton Act, to provide a uniform statute of limitations of 4 years for actions to recover damages brought either by the United States or by private parties. The right to recover damages for violations of the antitrust laws is a federally accorded right. At the present time, private treble-damage cases are governed by State statutes of limitations. This condition has caused serious and perplexing problems affecting both plaintiff and defendant. Today, private antitrust actions are needlessly complicated by issues such as which State's statute of limitations apply, the events from which such statute run, and the circumstances under which it may be tolled. Additionally, varying periods of limitation encourage a plaintiff to select for his forum the State with the most favorable limitation period. It is evident that the present confusion can only be ended by a uniform Federal statute controlling antitrust actions. The various State limitation periods run from 1 to 20 years, with a great number of State statutes varying between 1 and 4 years. Based on recent court interpretations in various States, some 26 States now have limitation periods of 4 years or less. The trend during the last decade throughout the States is toward a reduction in the length of the period of limitation. It appears that the average limitation for all the 48 States is about 4 years. The committee concluded that a period of 4 years is a fair and equitable period of time to govern damage actions brought under the antitrust laws. The limitation period of 4 years would operate prospectively with respect to cases already barred by existing State statutes of limitations as of the effective date of the enactment of the bill. The 4-year limitation period would have no applicability to cases in States with limitation periods less than 4 years where the existing limitation period had already expired upon the effective date of the proposed law.

The bill, in addition to establishing a uniform statute of limitations, makes several important changes in the tolling provisions of existing law. Present section 5 of the Clayton Act tolls the statute of limitations with respect to private treble-damage suits during the pendency of a suit by the United States to punish or restrain violations of the antitrust laws. This period is continued by the present bill. However, in order that a person may not be deprived of the benefit of Government suit because of an abrupt termination of the Government's litigation, the bill provides for extension of the tolling

period not only for the duration of the Government suit, but also for 1 year thereafter. Thus, the injured parties are provided with adequate time in which to take advantage of the Government's antitrust proceedings.

While it is important to safeguard the rights of plaintiffs by tolling the statute during the pendency of Government antitrust actions, it should be recognized that in many instances the long duration of such proceedings taken in conjunction with a lengthy statute of limitations may tend to prolong stale claims, unduly impair efficient business operations, and overburden the calendars of courts. It is believed that the provisions of this bill will tend to shorten the period over which private treble-damage actions will extend by requiring that the plaintiff bring his suit within 4 years after it accrued or within 1 year after the Government's case had been concluded. The present bill would assure all plaintiffs of at least 4 years from the time their cause of action accrued in which to institute suit. It would also guarantee every plaintiff at least a year from the close of a Government antitrust suit to prepare his case and file his complaint. In cases where the plaintiff's action had been suspended by the pendency of a Government antitrust proceeding, he would be required to bring his action either within the suspension period, that is within 1 year after the Government suit had terminated, or within 4 years after his cause of action accrued.

I believe that this legislation should be speedily enacted as an implementation of our presently existing antitrust laws.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

AMENDMENT OF FEDERAL AIRPORT ACT, AS AMENDED

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 641, S. 1855.

The ACTING PRESIDENT pro tempore. The Secretary will state the bill by title.

The LEGISLATIVE CLERK. A bill (S. 1855) to amend the Federal Airport Act, as amended.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interstate and Foreign Commerce with amendments.

Mr. JOHNSON of Texas. Mr. President, I call the attention of the junior Senator from Oklahoma, chairman of the Subcommittee on Aviation, to the bill, and I yield the floor.

Mr. MONRONEY. Mr. President, I ask unanimous consent that the committee amendments may be considered and agreed to en bloc.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and the committee amendments will be considered and agreed to en bloc.

The committee amendments agreed to en bloc are as follows:

On page 2, line 21, after the word "act", to insert "and shall not be limited to any

classes or categories of public airports"; on page 5, line 10, after the word "obligated", to insert "and the fiscal year immediately following"; on page 7, line 3, after the word "the" where it appears the second time, to strike out "fiscal year for which such amount was originally authorized to be obligated" and insert "two fiscal years for which such amount was so apportioned"; in line 14, after the word "is", to strike out "amended to read as follows:" and insert "repealed"; after line 15, immediately following the above amendment, to strike out:

"Sec. 8. At least 2 months prior to the close of each fiscal year, the Secretary of Commerce shall submit to the Congress a request for authority to approve, during the 2 fiscal years immediately following the fiscal year in which such request is submitted, those of the projects for the development of class 4 and larger airports included in the then current revision of the national airport plan which, in his opinion, should be undertaken during such 2 fiscal year period, the approval of which has not previously been authorized as provided herein, together with an estimate of the amount of the Federal share of the allowable project costs of such development: *Provided*, That during any one fiscal year the Secretary may, without obtaining authority therefor pursuant to this section, approve a project or projects for the development of any class 4 or larger airport so long as the Federal share of the allowable cost thereof does not exceed \$50,000. In determining what development to include in such a request the Secretary shall consider, among other things, the relative aeronautical need for and urgency of all such development included in the plan and the likelihood of securing satisfactory sponsorship of projects for the accomplishment of such airport development. The Secretary shall be deemed to have been granted the authority requested unless a contrary intent shall have been manifested by act or concurrent resolution of the Congress prior to June 30 of the year in which such request was submitted. No project for the development of a class 4 or larger airport shall be approved except as provided in this section."

And on page 9, after line 13, to insert: "Sec. 9. All amounts authorized by section 4 of this act to be obligated for grants under the Federal Airport Act shall be additional to all amounts previously appropriated or authorized to be obligated for such purposes. Notwithstanding any other provision of this act, the balances of such previously appropriated or authorized funds which are unexpended and unobligated on the effective date of this act shall remain available for obligation and expenditure as originally appropriated or authorized."

So as to make the bill read: "Be it enacted, etc., That paragraph (3) of section 2 (a) of the Federal Airport Act (49 U. S. C. 1101-1119) is amended to read as follows:

"(3) 'Airport development' means (A) any work involved in constructing, improving, or repairing a public airport or portion thereof, including the construction, alteration, and repair of airport passenger or freight terminal buildings and other airport administrative buildings and the removal, lowering, relocation, and marking and lighting of airport hazards, and (B) any acquisition of land or of any interest therein, or of any easement through or other interest in air space, which is necessary to permit any such work or to remove or mitigate or prevent or limit the establishment of, airport hazards; but such term does not include the construction, alteration, or repair of airport hangars."

"Sec. 2. The first two sentences of subsection (a) of section 3 of such act are amended to read as follows:

"Sec. 3. (a) At least 3 months prior to the close of each fiscal year, the Secretary is

hereby authorized and directed to prepare and revise annually a national plan for the development of public airports in the United States, including the Territory of Alaska, the Territory of Hawaii, and Puerto Rico, and the Virgin Islands. Such plan shall specify, in terms of general location and type of development, the projects considered by the Secretary to be necessary to provide a system of public airports adequate to anticipate and meet the needs of civil aeronautics, which projects shall include all types of airport development eligible for Federal aid under this act and shall not be limited to any classes or categories of public airports."

"Sec. 3. Section 4 of such act is amended to read as follows:

"Sec. 4. In order to bring about, in conformity with the national airport plan prepared and from time to time revised as provided in this act, the establishment of a nationwide system of public airports adequate to meet the present and future needs of civil aeronautics, the Secretary of Commerce is authorized, within the limits of the obligation authority provided in section 5, to make grants of funds to sponsors for airport development as hereinafter provided."

"Sec. 4. Section 5 of such act is amended to read as follows:

"Sec. 5. (a) For the purpose of carrying out this act with respect to projects in the several States, there are hereby authorized to be obligated by the execution of grant agreements pursuant to section 12 the sum of \$60 million for the fiscal year ending June 30, 1956, and a like sum for each of the fiscal years ending June 30, 1957, June 30, 1958, and June 30, 1959. Each such authorized amount shall become available for obligation beginning July 1 of the fiscal year for which it is authorized, and shall continue to be so available until so obligated."

"(b) For the purpose of carrying out this act with respect to projects in the Territories of Alaska and Hawaii, and in Puerto Rico and the Virgin Islands, there are hereby authorized to be obligated by the execution of grant agreements pursuant to section 12 the sum of \$3 million for the fiscal year ending June 30, 1956, and a like sum for each of the fiscal years ending June 30, 1957, June 30, 1958, and June 30, 1959. Each such authorized amount shall become available for obligation beginning July 1 of the fiscal year for which it is authorized, and shall continue to be so available until so obligated. Of each of the amounts authorized by this subsection, 45 percent shall be available for projects in the Territory of Alaska, 25 percent for projects in the Territory of Hawaii, 20 percent for projects in Puerto Rico, and 10 percent for projects in the Virgin Islands."

"(c) There are hereby authorized to be appropriated such amounts of money as may be necessary to liquidate obligations incurred as authorized by subsections (a) and (b)."

"(d) There are hereby authorized to be appropriated such amounts of money as may be necessary for planning and research and for administrative expenses incident to the administration of this act. As used in this section, the term 'administrative expenses' includes expenses under this act of the character specified in section 204 of the Civil Aeronautics Act of 1938 (49 U. S. C. 424)."

"Sec. 5. Section 6 of such act is amended to read as follows:

"Sec. 6. (a) As soon as possible after July 1 of each fiscal year for which an amount is authorized to be obligated by section 5 (a), 75 percent of the amount made available for that year shall be apportioned by the Secretary of Commerce among the several States, one-half in the proportion which the population of each State bears to the total population of all the States, and one-half in the proportion which the area of each State bears to the total area of all the States. Each amount so apportioned for a

State shall, during the fiscal year for which it was first authorized to be obligated and the fiscal year immediately following, be available only for grants for approved projects located in that State, or sponsored by that State or some public agency thereof but located in an adjoining State, and thereafter any portion of such amount which remains unobligated shall be redistributed and reappropriated as provided in subsection (c) of this section. Upon making an apportionment as provided in this subsection, the Secretary shall inform the executive head of each State, and any public agency which has requested such information, as to the amounts apportioned for each State. As used in this subsection the term "population" means the population according to the latest decennial census of the United States and the term "area" includes both land and water.

"(b) (1) Twenty-five percent of all amounts authorized to be obligated by section 5 (a) shall, as such amounts become available, constitute a discretionary fund.

"(2) Such discretionary fund shall be available for such approved projects in the several States as the Secretary may deem most appropriate for carrying out the national airport plan, regardless of the States in which they are located. The Secretary shall give consideration, in determining the projects for which such funds is to be so used, to the existing airport facilities in the several States and to the need for or lack of development of airport facilities in the several States.

"(3) Such discretionary fund shall also be available for such approved projects in national parks and national recreation areas, national monuments, and national forests, sponsored by the United States or any agency thereof, as the Secretary may deem appropriate for carrying out the national airport plan; but no other funds authorized under authority of this act shall be available for such purpose. The sponsor's share of the project costs of any such approved project shall be paid only out of funds contributed to the sponsor for the purpose of paying such costs (receipt of which funds and their use for this purpose is hereby authorized) or appropriations specifically authorized therefor.

"(c) Seventy-five percent of any amount apportioned for projects in a State pursuant to subsection (a) of this section which has not been obligated by grant agreement at the expiration of the 2 fiscal years for which such amount was so apportioned shall be reappropriated among the respective States in the manner of (a) and the remaining 25 percent of such amount shall be added to the discretionary fund established by subsection (b), and at the expiration of each succeeding fiscal year any of the amount so reappropriated for a State that still remains unobligated shall again be reappropriated and redistributed in the same manner."

"Sec. 6. Section 8 of such act is repealed.

"Sec. 7. The first sentence of subsection (d) of section 9 of such act is amended to read as follows: 'All such projects shall be subject to the approval of the Secretary of Commerce, which approval shall be given only if he is satisfied that the project will contribute to the accomplishment of the purposes of this act, that sufficient funds are available for that portion of the project costs which is not to be paid by the United States under this act, that the project will be completed without undue delay, that the public agency or public agencies which submitted the project application have legal authority to engage in the airport development as proposed, and that all project sponsorship requirements prescribed by or under the authority of this act have been or will be met.'

"Sec. 8. The third sentence of section 12 of such act is amended to read as follows: 'Each such offer shall state a definite amount

as the maximum obligation of the United States payable from funds authorized by this act, and shall stipulate the obligations to be assumed by the sponsor or sponsors of the project.'

"Sec. 9. All amounts authorized by section 4 of this act to be obligated for grants under the Federal Airport Act shall be additional to all amounts previously appropriated or authorized to be obligated for such purposes. Notwithstanding any other provision of this act, the balances of such previously appropriated or authorized funds which are unexpended and unobligated on the effective date of this act shall remain available for obligation and expenditure as originally appropriated or authorized."

Mr. MONRONEY. Mr. President, the bill now being considered, S. 1855, was reported to the Senate by the unanimous vote of the full Committee on Interstate and Foreign Commerce. It previously received the unanimous support of the Subcommittee on Aviation.

The bill is not difficult to understand. Simply, it carries out the promise the Congress made in 1946, but which Congress failed to keep. Under the bill, we will make certain that the \$520 million airport-construction-aid bill passed just after World War II will now be carried out with Federal help.

It will throw the Federal airport-construction program into high gear by providing \$63 million a year over a 4-year period as the Federal share of airport construction.

In addition, a \$20 million appropriation is recommended by the Subcommittee on Department of Commerce Appropriations which will be added to the authorization for this year, thus making a total of \$83 million available for matching funds during the first year of the operation of the program.

The steady allocation of these funds is provided for by granting contract authorization in the amount of \$63 million for the years 1956, 1957, 1958, and 1959. The Secretary of Commerce would have authority to use these contract authorizations to make grants-in-aid to the local authorities on a 50-50 matching basis.

Since the States were required to match Federal contributions, even in the 1946 program, the program started slowly, because at least 1 or 2 years were required for the local authorities to make financial arrangements, complete their plans and designs, and have them approved for Federal matching.

Also, since adequate local funds could not be provided at one time for full project construction in many places, the projects often had to be completed in stages.

It is interesting to note that for the first full year after enactment of the program only \$45 million was appropriated. The obvious reason for this was that the States and municipalities were not then ready for the full contribution which the Federal Government was to make. The expectation of larger funds in the succeeding years, however, did not materialize, even though the States and municipalities had in the meantime completed their financial arrangements, floated their bonds, made their designs, and oftentimes had acquired options on lands for the airports.

Congress did not follow through on its promise to appropriate funds, which cannot exceed \$100 million a year under the old act. Instead, it fell far short of carrying out its promises. During the next fiscal year, after the enactment of the bill, Congress cut the original starting appropriation, which was only a half measure of \$45 million, down to \$32 million. So during the next fiscal year, 1948, only \$32 million was appropriated.

Subsequent annual appropriations have not reached one-half of the \$100 million authorized to be appropriated each year.

Now, 9 years after the program was instituted, there has been appropriated and made available for projects only \$236,221,151 of the original \$520 million authorized for the 7-year program.

Congress has met less than 50 percent of the obligation to which it pledged itself when it passed the original Federal Aid Airport Act.

It is also interesting to note that even though the bill before the Senate provides for the airport program \$63 million a year for the next 4 years, it still does not exceed the original authorization voted in 1946, which was expected then to be used in 7 years.

I believe it is evident to all that the airport program of the United States must be put on a basis of steady annual allocation of funds if the cities and towns are to be able to make their plans for financing, planning, and acquiring land for their future airport development. As the program now operates, with meager appropriations made one year and no funds appropriated the next, the Federal aid principle actually discourages the construction of airports. Cities and towns which have voted bonds in anticipation of matching their funds with Federal money cannot afford to spend their bond money alone for the work without getting any Federal matching funds.

If Congress fails to contribute a sufficient amount to match the local funds, then, in effect, the Federal aid airport program acts against the construction of airports by local communities.

Most of the bond issues are contingent upon this matching principle. Even if they are not, few public officeholders in charge of airport programs wish to be charged with failure to secure and use Federal funds available.

Thus, when small amounts are appropriated by the Congress, or as in 1954, when no funds were appropriated, the entire program of the cities and towns necessarily bogs down completely.

Instead of stimulating the cooperative construction of a modern airport system, insufficient Federal aid stands in the way of such a program by eliminating even the investment which cities alone would make of their own funds. Half-completed projects can be found in almost all parts of the country because of the hit-or-miss system of Federal airport aid.

The only practical way to stimulate a genuine long-range airport development program is to have funds available on a steady basis over a period of years long enough to enable cities and towns to

plan their programs, secure their grants from the Secretary of Commerce, and be certain that the money will be available to match theirs when the work is done.

To assure that this money will be available on a steady basis, S. 1855 contemplates adoption of the contract-authority principle which has been so successfully applied to the Federal highway program.

From the very beginning of the Federal highway program Congress has made available definite amounts for obligation. I think it was realized that such a procedure was absolutely necessary because of the planning and programming required in highway construction. Since 1926 the highway program has been carried out by enactment every 2 or 3 years of a law granting contract authorizations in fixed amounts for each of 2 or 3 fiscal years beginning at least 1 calendar year following its enactment.

Without this contract authority, the United States certainly would not have had the nationwide network of highways we have today.

The committee could see no justifiable reason why the same principle could not or should not be applied to the Federal-aid airport program, despite the fact that the Department of Commerce did not endorse it.

Certainly there is as much, if not a greater, need for advance planning and programming of airport construction as there is for highway construction.

For several reasons, the committee also has agreed that contract authorizations should cover a period of 4 fiscal years. This would extend by 1 fiscal year the period of time for which Federal aid is now authorized by the Federal Airport Act. We felt it essential to extend the period of contract authorization to 4 fiscal years to clearly demonstrate that the Federal Government will not allow the program to lapse without making available at least the total amount of funds authorized in the original 1946 act.

We did not feel that any shorter period would be sufficient to restore the confidence of project sponsors who must make long-term plans for the development of their airports. In many cases the construction of a single facility must be accomplished by the simultaneous programming of separate projects which must be undertaken in stages covering from 2 to 4 years.

Furthermore, this period would permit the accomplishment prior to 1960 of at least a substantial portion of the airport development which, according to the National Airport plan, is needed and should be accomplished prior to that time, and also at a rate within the capabilities of the cities, States, and their political subdivisions who act as sponsors.

It was the opinion of the committee that none of these objectives could be accomplished in a shorter period than is contemplated by S. 1855.

Almost all the witnesses appearing before the aviation subcommittee during the public hearings supported the general purposes of the bill. Some suggested amendments and modifications,

and several minor changes were made in the bill as a result of the hearings.

Mr. President, we had strong support for the idea of greater Federal aid and of a faster moving program from Hon. Ross Rizley, Chairman of the Civil Aeronautics Board.

This advance in construction of airports was even advocated by the Honorable Louis S. Rothschild, Under Secretary of Commerce for Transportation, who expressed opposition on the part of his Department and the administration to the method of financing. According to his testimony, they were not in accord with the bill insofar as it seeks to place the Federal-aid airport program on a basis that is not recognized by them as properly accomplishing the purposes of the act. The language used in his statement was: "The administration cannot endorse such a departure from normal budget practices."

Mr. President, I have tried to show that the bill is on all fours with the system used in financing the Federal highway program since 1917. It certainly proposes no innovation in the use of Federal matching funds for projects which have to be developed and designed over a period of years by Federal authorities.

Time is moving rapidly against us in modernizing the airport program. Briefly, the hearings reveal that only seven civilian airports in the United States can accommodate jet-propelled transportation planes. Yet in 1 or 2 or 3 years airlines will be ready for such service, and there will be no airports to accommodate such planes.

It was shown that 82 of 600 civilian airports have military activities, and there was a need for bringing the civilian airports up to standard.

I believe the pending bill has been carefully worked out, is absolutely sound in all its provisions, and I express the hope the Senate will pass it.

Mr. President, I ask unanimous consent that the remainder of the statement which I had prepared be printed in the RECORD at this point.

There being no objection, the remainder of Mr. MONROE's statement was ordered to be printed in the RECORD, as follows:

Testimony was received from the following: Hon. Ross Rizley, Chairman, Civil Aeronautics Board; Hon. Louis S. Rothschild, Under Secretary of Commerce for Transportation; Hon. Frederick B. Lee, Administrator, Civil Aeronautics Administration; J. D. Durant, secretary and assistant general counsel, Air Transport Association of America; Hon. William B. Hartsfield, mayor, city of Atlanta, Ga., representing the American Municipal Association; Col. A. B. McMullen, executive secretary, National Association of State Aviation Officials; Louis R. Inwood, deputy director of commerce, city of Philadelphia, representing the Airport Operators Council; Thomas K. Jordan, director, Wisconsin State Aeronautics Commission; Edward D. Rapier, vice chairman, City of New Orleans Aviation Board, New Orleans, La.

In addition, written communications concerning the bill have been received from the Under Secretary of the Department of the Air Force, the Comptroller General of the United States, the secretary-treasurer of the California Association of Airport Executives, Inc., the director of airports of the Louisville and Jefferson County Air Board,

the secretary-treasurer of the American Association of Airport Executives, the director of aviation of the city of San Antonio, Tex., the president of the Michigan Association of Airport Managers, the director of aviation of the city and county of Denver, Colo., the deputy director of the aviation department of the Port of New York Authority, the Chairman of the Federal Government Liaison Committee of the American Association of Airport Executives, the manager of utilities of the public-utilities commission of the city and county of San Francisco, Calif., and the director of the board of park commissioners of the city of Wichita, Kans.

All of these communications have been inserted in the record of the hearings. I would like to quote herewith from the report:

"According to the testimony and communications received by the committee it appears that all interested agencies, including particularly the States and their political subdivisions, the scheduled airlines, and both the Civil Aeronautics Board and the Department of Commerce, are in accord with the objectives of the bill S. 1855 insofar as it seeks to place the Federal-aid Airport Program on a more stable basis and make available larger amounts for airport projects than have been appropriated in the past. In addition, it appears that all agencies concerned are in agreement that within the limit of available Federal funds, Federal aid is desirable for the construction and repair of airport terminal buildings and for the development of all classes of public airports.

"It is also to be noted that, with the exception of the Department of Commerce and the Civil Aeronautics Board, all of the agencies which have expressed their views concerning this bill are strongly in favor of the means by which the bill would accomplish its principal objective and therefore endorse the contract authority provisions of the bill. So far as the two Federal Government agencies are concerned, however, the Civil Aeronautics Board takes no position on this aspect of the matter while the Department of Commerce has testified that 'the administration cannot endorse such a departure from normal budgetary practice' and therefore recommends against enactment of the bill. In addition, the Department of Commerce opposes the provisions of section 2 of the bill which would require that the National Airport plan include all types of airport development eligible for Federal aid under the Federal Airport Act.

"For reasons which will appear, the committee is completely in disagreement with the views of the administration and the Department of Commerce as to these features of the bill and is extremely disappointed that the administration and the Department have taken the position indicated.

"It should also be noted that the National Association of State Aviation Officials has recommended several amendments to the Federal Airport Act not contained in S. 1855 as introduced. The committee has given those recommendations very careful consideration and as a result has adopted three of them.

They are the proposed amendments to the act which the committee has incorporated in sections 2, 5, and 6 of the bill as reported by its adoption of the first four of the committee amendments to the bill set forth above."

The principal change from present provisions of the Airport Act is to authorize annual appropriations over 4 fiscal years. Under present appropriating procedures, the budget estimates and the amounts finally appropriated vary in such wide degree on a year-to-year basis that steady planning, or a carefully planned program of airport building is impossible.

This was best illustrated in 1953 when the entire program was shut down as the Secretary of Commerce conducted a survey to de-

termine the need for Federal assistance in public airport development. Despite the fact that many States and cities were in the midst of planning airport work, or in completing financing arrangements, the program was shut down in its entirety for 1 full year.

Then, after a strong report finding that Federal help for airport construction was justified, the committee called particular attention to the fact that larger amounts than had previously been appropriated over the years would have to be made available to effectively and efficiently carry out the airport program.

This fresh declaration rather stimulated things, and in 1955, after no appropriations in 1953, the sum of \$22,500,000 was appropriated. At that time it was stated that because the program had slowed down during the year that no funds were provided, not as much would be needed for the first year of its reactivation.

But when we came to the next year with great anticipation of an appropriation, we find that instead of an increase, the Budget Bureau has reduced by one-half the insufficient sum of \$22,500,000 appropriated last year—and only \$11 million is recommended. Fortunately the Appropriations Committee refused to reduce the program that much and destroy it, and did increase the funds to \$20 million in the Commerce Department appropriation bill just passed.

Because of the neglect of this program and the large backlog of airport work waiting to be financed on a 50-50 basis, one of the committee amendments in this bill provides for the addition of this appropriated sum of \$20 million to the annual authorization of \$63 million. Thus we will start the first year of the program with a total amount available for allocation of \$83 million if this bill is passed.

I would like to quote from the report of the Senate Appropriations Committee on the Commerce Department appropriation bill:

"Many communications and statements have been presented to the committee by distinguished citizens, Members of the Senate and of the House of Representatives, urging an increase in this fund up to the maximum authorized to be appropriated in 1 year, which is \$100 million. Testimony was presented to the committee as to the criteria employed by the administration in choosing airports for Federal aid under this authority.

"In view of the fact that decision is pending on legislation which would substantially change the pattern of selection and extend eligibility for air to more of the communities throughout the Nation which have sold or authorized bonds, or by other means built up funds to match Federal grants aggregating more than \$161 million, it is believed a larger appropriation would be of doubtful value to communities seeking the increased grants."

We wish to commend the Committee on Appropriations for thus leaving it to this committee to find and propose solutions to the budgetary and project selection problems involved in the Federal-aid airport program, by appropriate amendments to the Federal Airport Act. It is hoped that the members of that committee will agree that the bill S. 1855 as here reported provides those solutions and that they will lend the bill their full support.

While the Nation spends some \$20 billion for military aviation, we continue to permit a growing inadequacy and obsolescence in our civil airports. We need only think back to World War II to remind ourselves of the trojan work done by the then inadequate civilian airports.

Today, however, with the new demands of both military and civilian aircraft for longer and heavier runways, for unobstructed glide paths, and better control of obstructions of all kinds, our civilian airports are falling far, far behind in their ability to meet the needs of either military or civilian aviation.

We are probably only 2 or 3 years away from the inauguration of jet transport flights. The committee was informed that only seven fields in the entire United States can accommodate these heavier and faster super planes. Yet the planes will be ready for service long before the airports can possibly be planned and programed to accommodate them. Certainly if we are to maintain our leadership in aviation, we must keep abreast of these new improvements. A jet plane that can land at only seven airports in the Nation will not have a brilliant commercial future in the next few years.

Other types of planes will require longer and heavier runways as new types of propulsion are used and speeds increased. Yet on the basis of the programs of the past for Federal airport aid, they will remain in the horse and buggy era.

Although the Appropriations Committees of the two Houses virtually doubled the \$11 million request for airport aid made by the Budget Bureau, and appropriated \$20 million, it is clearly inadequate to meet present needs.

You might compare this \$20 million available for all the 48 States and our Territories with the \$19 million plus that is being spent by the Naval Academy for its new landing field at Annapolis. I do not begrudge the Navy its new field—but I must respectfully point out that Chicago, San Francisco, Los Angeles, Kansas City, and a dozen other cities must also be considered as having unfilled aviation needs. When the \$20 million is split up among the 48 States and the Territories, it is clearly inadequate.

I am inclined to believe that the amount we propose, \$83 million for the first year, and \$63 million thereafter, will just about keep pace with current needs.

The best estimates of air traffic increases indicate a staggering congestion over our major airports in a very few years. We already know the extent that it exists here in Washington, at La Guardia and at Midway Airport in Chicago. This is only the beginning of our problem.

The committee heard testimony from the Air Transport Association that their estimates of increases show an increase of 71.16 percent in passenger miles flown by scheduled air carriers between 1954 and 1965; an increase of 155.4 percent in the number of passengers carried by those airlines; and an increase of 103.7 percent in the number of aircraft movements.

The Civil Aeronautics Administration itself is forecasting a 22 percent increase in domestic air carrier passenger miles flown during the year 1955 over 1954. Remember, the same airports that will handle the traffic of tomorrow—and are handling the traffic of today—were built for about one-third to one-half the traffic they are now expected to carry.

It is hard indeed to estimate the actual airport needs of the country. Several means can be used to gage them, however. One is the National Airport plan which shows approximately \$290 million in Federal funds are needed to complete the plan. Another perhaps more realistic figure was furnished the committee by the American Municipal Association, the Airport Operators Council and the National Association of State Aviation Officials as a result of their joint survey.

According to that survey, the funds needed by both the local governments and the Federal Government during the next 3 or 4 years to complete this program total \$468 million. Thus the Federal share would be \$234 million for the 3- or 4-year period.

Still another way to gage this is the amount needed for matching as estimated by the CAA on the basis of State and municipal funds now available. This amount, according to CAA, totals \$162 million, while the 3 aviation associations just mentioned figure the amount at \$173 million.

Both of these figures are estimates, but it is a fact that the Administrator of the CAA has already received requests for aid during the fiscal year 1956 amounting to almost \$105 million in Federal funds.

Certainly the growth of aviation is certain to continue, and with it the demands for more expensive construction of landing facilities, electronics equipment, and for terminal facilities which can handle passengers numbering in the thousands. The need will certainly outrun all present estimates.

One new factor that will undoubtedly create considerable interest in the construction of new airport facilities of the future will be the building of modern freight terminals for the development of air freight traffic as a major factor in air transport. Modern, speedy ground facilities for handling air freight are necessary for the development of this type of air transport and should be undertaken as rapidly as possible.

Today the lack of adequate labor saving and time saving devices in the handling of air freight holds back this development which will advance aviation still farther in its services to all types of transportation.

S. 1855 permits the Secretary of Commerce to make grants not only for airport terminal facilities but also for freight handling facilities. While the Secretary will be required to use his discretion on such allocations as are made to help build terminals, both passenger and freight, as against the needs for landing strips, taxiways, and other physical improvements on the field, it is felt that no airport bill that did not permit the construction of a complete airport could possibly answer our national needs.

Mr. SMATHERS. Mr. President, I am happy to have an opportunity to speak in support of Senate bill 1855. As one of the sponsors of the bill, I am naturally extremely interested in it; and as a member of the Aviation Subcommittee of the Committee on Interstate and Foreign Commerce—the committee which has reported the bill unanimously—I have had an opportunity to become somewhat familiar with the problems which this bill seeks to solve, and therefore feel that I may be able to help make clear to my fellow Senators its purposes and the need for its enactment.

This bill is vitally important to civil aviation and national defense. Its passage is essential in order to revive the Federal-aid airport program—which has been lagging for several years—and to make the program more stable and effective, and this, in turn, is essential if the United States is to have a nationwide system of public airports adequate to meet today's needs and the additional needs which will have to be met before 1960.

As I shall attempt to show, our present civil airport facilities are deficient and inadequate in many respects and, unless something is done about the situation by the Congress, they will become less and less adequate during the next few years. If action is not taken by the Congress to revive the Federal-aid airport program, our public airports will not be able to accommodate with safety the tremendous increase in flying activity which is now taking place; nor will we have a system of airports adequate to accommodate the turbojet and jet aircraft which will soon be in general operation in civil aviation.

Civil airport needs are pressing and urgent and can be met in time only if we enact S. 1855 now.

The pending bill would amend the Federal Airport Act in several respects. However, I shall confine my brief remarks to the two principal purposes of the bill, which, simply stated, are: First, to insure the provision of adequate Federal funds to carry out the Federal-aid airport program during the next 4 years; and, second, to insure the inclusion in the program of all classes of airports and all types of airport construction work which are needed to provide an adequate system of public airports, which are now eligible for Federal aid under the present act.

More specifically, the first and most important purpose of the bill is to grant to the Civil Aeronautics Administration of the Department of Commerce authority to obligate a total of \$252 million for airport projects during the next 4 fiscal years at a rate of \$63 million each year. Of these amounts, \$60 million a year, making a total of \$240 million, would be available for projects in the continental United States, and \$3 million a year, making a total of \$12 million, would be available for projects in Alaska, Hawaii, Puerto Rico, and the Virgin Islands.

In addition, the bill provides that the amounts authorized are to be additional to the \$20 million appropriation recently voted by this body for the program during the fiscal year 1956. Therefore, the bill would provide a total of \$272 million for the 4 fiscal years, of which \$83 million would be available for use during the fiscal year 1956.

It is the considered opinion of the committee that these amounts are not entirely adequate to bring about the public airport development which should be undertaken prior to 1960. However, the committee is also of the opinion that the provision of such contract authority at this time would be an excellent start toward the accomplishment of that objective, and that, by using the advance authorization device, the bill would make it possible to supplement the funds in later years, if this should prove to be necessary, without having seriously delayed the accomplishment of the program in the meantime.

The report of the committee makes it clear how the amounts of the proposed contract authorizations were arrived at. Suffice it to say that the committee's estimates were based: First, on the 1954 revision of the national airport plan prepared by the CAA, which was based on a projection of airport needs up to 1960; second, on a recent survey of airport needs made by the American Municipal Association, the Airport Operators Council, and the National Association of State Aviation Officials; third, on two surveys of the amount of State and municipal funds now available for use in sponsoring airport projects under the act, one made by those three associations and one by the CAA; and fourth, on information furnished by the CAA as to the requests which have been received by that agency for airport aid during the fiscal year 1956.

At the hearings on the bill which were held by the Aviation Subcommittee, much helpful testimony was received as to the nature and extent of the airport-development needs which the bill is de-

signed to meet. All the witnesses appearing at the hearings, representing both the Civil Aeronautics Board and the Department of Commerce, the States and their political subdivisions—which of course are the owners of most of the public airports—and the scheduled air carriers and their pilots, speaking on behalf of the users of public airports, were unanimous in expressing the view that there is a considerable need for the construction and improvement of public airports and that substantial amounts of Federal funds are required to meet the need.

I shall not attempt in these remarks to indicate the nature of the airport needs, the reasons for their existence, or the justifications for the furnishing of Federal assistance in meeting them. However, I should like to call attention particularly to one of the needs which was very ably pointed out by the Honorable William B. Hartsfield, mayor of the city of Atlanta, Ga., representing the American Municipal Association. That need is the provision of adequate public airports to serve the needs of business flying. Mayor Hartsfield testified that there are now in this country more than 6,000 industrial and business organizations which will operate next year nearly 20,000 aircraft. The mayor pointed out that a majority of the flights of that sizable fleet of business aircraft will be to airports not served by air carriers and not included in the very limited 1955 airport program. It was his view that the growth which has already occurred in the use of business airplanes—and I quote his words—"requires an entirely new look at our civil airport development program."

But I have said enough as to the need for the provision of substantial amounts of Federal funds for the airport program. I am sure that many of my colleagues who are not members of the Interstate and Foreign Commerce Committee are as aware of those needs as are the members of the committee.

I am also sure that many will agree that if the provision of such substantial amounts were the only need, this would be a matter for the Appropriations Committee, since under the Federal Airport Act that committee could approve sufficiently large annual appropriations to meet the airport needs with which we are faced. However, this is by no means the only need, nor is the annual appropriation device any longer an effective means of carrying out the Federal-aid airport program. Instead, the fact is that there is also a need at this time to provide a more stable basis for the carrying out of the program, which will restore the confidence of the States and their political subdivisions in their Federal partner in the airport program. It is evident from the testimony received by the subcommittee that that confidence—which of course is essential to the successful conduct of the program—has been shaken, if not destroyed, by the extreme fluctuations in the amounts of the annual appropriations made for carrying out the program since its inception in 1946, and particularly by the history of those appropriations during the past few years. The committee is

convinced that that confidence can be restored only if the Federal Airport Act is amended to grant advance contract authorizations in substantial amounts, extending over a period of four fiscal years. It appears that the Appropriations Committee, to its great credit, recognized this fact at the time it was considering the recent appropriation for the program during the coming fiscal year, and therefore graciously deferred to the Committee on Interstate and Foreign Commerce.

This advance contract authorization principle, it should be noted, has been used with great success in carrying out the Federal highway program ever since 1923. The need for advance contract authorizations in carrying out that program is essentially similar to that which has prompted the committee to recommend administration of the airport program on the same basis. In fact, the committee considers such authorizations to be at least as essential to the airport program as they are to the highway program.

In addition to placing the program on a more stable basis, it should be noted that the adoption of the contract authority device contained in S. 1855 would have several other advantages. Perhaps the most important of these is that the advance contract authorization provisions of the bill would make it possible for the CAA to program projects in advance of the fiscal year in which they are to be undertaken, which in turn would furnish the municipalities and States the definite assurance of the availability of Federal funds, which they must have if they are to proceed with their financing arrangements and with the planning, land assembly, and other preparations which in many cases must be made before airport projects can be undertaken. In addition, use of the advance contract authority device would result in financial savings to the States and local public agencies and to the Federal Government, and also, by providing a greater continuity for the program, would have several administrative advantages to the Federal Government.

The second main purpose of the bill is to make sure that the Department of Commerce will use the money which is to be made available for all classes of public airports and all types of projects which are eligible for aid under the Federal Airport Act, thus carrying out the intent of the Congress in passing that act in 1946. More specifically, the bill would make clear the congressional intent that grants-in-aid be made, within the limits of available Federal funds, for the construction, alteration, and repair of airport terminal buildings, and for the construction and improvement of the public airports which are required to serve the civil aviation needs of the small and medium-size cities of the Nation.

It is unfortunate that the act should have to be amended to accomplish this purpose. However, the committee believes such legislation to be necessary in order to make it clear to the Department of Commerce that certain policies which it recently has adopted governing the administration of the Federal-aid airport program—presumably in the belief

that it was acting in accordance with its legislative authority—are contrary to the spirit and intent of the Federal Airport Act, and therefore should be abrogated or modified. I refer particularly to the policy of that Department which in effect makes the development of airport terminal buildings administratively ineligible for Federal aid under the Federal Airport Act, and to the very restrictive criteria which the Department has established for use in determining the eligibility of airports for inclusion in the program. Applying those criteria—which are commonly termed "the 3,000 and 30 criteria," meaning 3,000 enplaned passengers a year or a based aircraft population of 30 aircraft, or some combination of the two factors—the number of airports eligible for Federal aid is reduced from approximately 3,000 to only about 800.

The Committee on Interstate and Foreign Commerce is in complete agreement that Federal aid should be provided for the construction, alteration, and improvement of needed airport terminal buildings and for the development of all public airports required to serve the needs of civil aviation, including not only the airports required to serve the needs of scheduled and nonscheduled air carriers but the many airports needed for business flying and other general aviation activities. In addition, it is the committee's view that the distribution of Federal funds available at any one time should be accomplished on a State-by-State and project-for-project basis by use of the programing and project approval authority vested in the Secretary of Commerce, and not by limiting the national airport plan to any classes of airports or types of projects, or by limiting the eligibility of classes of airports or types of projects for inclusion in any annual airport program. Passage of the bill S. 1855 would serve to assure the accomplishment of these objectives, and in the opinion of the committee, is necessary for that purpose.

For all these reasons it is my sincere hope that the Senate will pass the bill S. 1855 as reported by the committee, and that this will be done without delay. I strongly urge the support of all Senators to this end.

Mr. President, at this time I should like to congratulate the able chairman of the Aviation Subcommittee for the splendid work he has done and for the recommendations he has made.

Mr. BIBLE. Mr. President, as a member of the subcommittee, I simply wish to associate myself with the remarks of the distinguished chairman of the subcommittee. I should also like to associate myself with the statement of the Senator from Florida in commending the chairman of the subcommittee for the very fine handling of the bill. I think the proposed legislation should be passed.

Mr. PAYNE. Mr. President, I merely wish to associate myself with the remarks which have been made on the pending legislation by the distinguished chairman of the subcommittee, the Senator from Nevada, and the Senator from Florida, because the bill is a very constructive measure. The committee voted unanimously to report the bill, and gave

it full support. The bill provides the only means whereby we are ever going to get needed improvements in the airway system.

In my opinion, the bill is constructive, it is sound, and it meets many of the objections to provisions in the old law which prevented States and communities from making definite plans for needed airport improvements.

Mr. BARRETT. Mr. President, will the Senator yield?

Mr. PAYNE. I am happy to yield.

Mr. BARRETT. I have listened to the statements by the chairman of the subcommittee, by the Senator from Nevada, by the Senator from Florida, and by the Senator from Maine, and I wish to say that I, too, am in favor of the bill. I think it presents much needed legislation. I am particularly impressed with the provision in the bill which would make it possible for the State authorities to plan in advance, and with the contract authority which is comparable to that contained in the present highway legislation.

I should like to ask the distinguished Senator from Maine if there is any provision in the bill or in the report which will restrict the funds which may be made available to small communities. I may say that the agency did have a regulation of some sort which prohibited aid for small airports at which only 10 planes were based and which had facilities for less than 3,000 passengers a year. Of course, that provision operated very much against towns in my State. I hope there is nothing in the bill which will make such restrictions applicable in the future.

Mr. PAYNE. I can assure my distinguished colleague from Wyoming that such restrictions have been removed, and are not included in the pending bill.

The ACTING PRESIDENT pro tempore. If there is no further amendment to be offered, the question is on the engrossment and third reading of the bill. The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. CASE of South Dakota. Mr. President, I wish to express my appreciation for the work the committee has done on the pending bill, and particularly for eliminating the restriction to which the Senator from Wyoming [Mr. BARRETT] has alluded. In the West the size of a town does not measure its significance or importance. Many towns which contain few people serve a large territory. The importance of air service to such communities can be measured only by the distance which people who use the airports may travel.

The airplane has become an angel of mercy in sickness and in emergencies of all kinds. It is important that airports be located at some of the smaller points in the West, because of the very great areas which are served in that section of the country. I am glad that in reporting the bill the committee has seen fit to eliminate any suggestion that allocation of the funds should be limited to towns of a particular size or airports which have a certain number of planes landing in a particular period of time. The importance of the airplane is to be

measured by the task it accomplishes, not by the number of times it accomplishes the task. Therefore, I am glad the bill as reported contains the language found in it.

Mr. ELLENDER. Mr. President, I regret that when the distinguished junior Senator from Oklahoma started to explain the bill, I was called out of the chamber. I should like to ask him a few questions, if he will consent to my doing so.

Mr. MONRONEY. I shall be happy to answer questions of the Senator from Louisiana.

Mr. ELLENDER. As I understand, the pending bill in no measure changes the yardstick by which communities are to qualify for Federal assistance in constructing airports under the present law. Is that correct?

Mr. MONRONEY. It changes in no way the formula for the allocation of the funds on a State-by-State basis.

Mr. President, at this point, I ask unanimous consent to have printed in the RECORD a table showing the amount each State will receive under the bill.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Federal-aid airport program, distribution of \$63 million appropriation

State or Territory:	Apportionment
Alabama.....	\$836,180
Arizona.....	939,544
Arkansas.....	670,938
California.....	2,734,099
Colorado.....	955,269
Connecticut.....	340,256
Delaware.....	64,980
District of Columbia.....	120,271
Florida.....	851,856
Georgia.....	942,419
Idaho.....	694,985
Illinois.....	1,721,651
Indiana.....	852,738
Iowa.....	800,327
Kansas.....	882,263
Kentucky.....	733,174
Louisiana.....	760,599
Maine.....	385,763
Maryland.....	439,234
Massachusetts.....	767,262
Michigan.....	1,654,594
Minnesota.....	1,072,185
Mississippi.....	676,053
Missouri.....	1,096,682
Montana.....	1,157,301
Nebraska.....	759,013
Nevada.....	827,050
New Hampshire.....	147,216
New Jersey.....	781,667
New Mexico.....	985,691
New York.....	2,606,233
North Carolina.....	989,458
North Dakota.....	605,945
Ohio.....	1,511,101
Oklahoma.....	841,462
Oregon.....	932,127
Pennsylvania.....	1,902,130
Rhode Island.....	127,157
South Carolina.....	542,723
South Dakota.....	657,256
Tennessee.....	798,404
Texas.....	3,093,777
Utah.....	719,824
Vermont.....	126,216
Virginia.....	803,025
Washington.....	863,070
West Virginia.....	475,132
Wisconsin.....	993,906
Wyoming.....	754,789
Total State apportionment.....	45,000,000

Federal-aid airport program, distribution of \$63 million appropriation—Continued

State or Territory—Con.	Appropriation
Discretionary funds.....	\$15,000,000
Total funds for continental United States.....	60,000,000
Alaska.....	1,350,000
Hawaii.....	750,000
Puerto Rico.....	600,000
Virgin Islands.....	300,000
Total.....	3,000,000
Grand total.....	63,000,000

Mr. MONRONEY. I may say to my distinguished colleague and friend, the Senator from Louisiana [Mr. ELLENDER], that, under the bill, the amount for the State of Louisiana each year will be \$760,599.

Mr. ELLENDER. Of course, I am glad to have that pointed out. Let me inquire whether the money can be used for the same purposes as those provided in the present law.

Mr. MONRONEY. Indeed, it can; and we hope it will be used for wider purposes. Under the present departmental regulation, the Commerce Department is limiting its funds for runway construction, markings, and things of that kind. Our bill particularly specifies that this is available not only for runways and things of that nature, but also for the construction, alteration, and repair of airport passenger or freight terminal buildings and other airport administrative buildings, and the removal, lowering, relocation, and marking and lighting of airport hazards. This bill is broader than the present act. In particular, we have added provision for the freight terminals. These things will be discretionary. If the Department of Commerce and the CAA wish to share the money for that construction, they may do so.

Mr. ELLENDER. As the Senator from Oklahoma is aware, the Appropriations Committee provided for a fund of \$20 million for the next fiscal year. This is \$9 million above the budget estimate.

Mr. MONRONEY. Indeed, so.

Mr. ELLENDER. Will the \$20 million which we have already appropriated be added to the contracting authority provided in the bill?

Mr. MONRONEY. One of the committee amendments which has been adopted makes the \$20 million available, in addition to the \$63 million, for the coming fiscal year. After that, the fund will be only \$63 million.

Mr. ELLENDER. I understand there will be spent, each year, \$63 million, except for the first year, when the amount will be \$83 million; that is, the \$63 million contract authority provided in the pending bill, plus the \$20 million already appropriated.

Mr. MONRONEY. The distinguished Senator from Louisiana is absolutely correct.

Mr. ELLENDER. Will this bill, if enacted into law, run for a period of 4 years?

Mr. MONRONEY. Yes; 4 years, from 1956 through 1960.

Mr. ELLENDER. What will become of the \$500 million authorization pro-

vided for in the present law? Would it be repealed under the pending bill?

Mr. MONRONEY. No, we are obligating against it. It is interesting to note that, with the \$63 million per year we barely come up to the authorization in the original act of 1946. So the bill does not commit the Government to any more money than the amount the Government has been committed to, but it will enable the cities and towns to have something to rely upon, so we can get away from the very bad condition of rundown, obsolete, dangerous airports which is developing throughout the country.

Mr. ELLENDER. I desired to be certain of that, and also to be sure that the bill does not change the present law in any manner.

I wish to state to the Senator from Oklahoma that I am in full accord with the purpose of this bill. As he mentioned briefly just a few moments ago, the Federal Government has not, in my humble judgment, lived up to its moral obligations to the carious communities which, acting on the authority of the law, have bonded themselves in order to have on hand the fund necessary to provide airport improvements. As I recall, these communities have indebted themselves to the extent of some \$100 million, yet the Federal Government has not yet made available the funds to match these local contributions. The net result is that these communities are paying interest on these borrowed funds, in many instances, and that the entire aid to airports program is lagging. I think the bill we have before us is a good bill, and I intend to vote for it. I am particularly glad to have the assurance of the distinguished Senator from Oklahoma that the bill now before us does not change the present law, except to make more certain payment of the bona fide obligations of the Federal Government, and to make these funds available for broader purposes than is now the case.

Mr. MONRONEY. The bill is almost on all fours with the present law, with a few minor differences.

The major difference, of course, is the contractual authority granted to make certain continuing available of Federal matching funds for the 4-year period.

Mr. JOHNSON of Texas. Mr. President, will the Senator from Oklahoma yield to me?

Mr. MONRONEY. I yield.

Mr. JOHNSON of Texas. Mr. President, like the distinguished Senator from Louisiana [Mr. ELLENDER], I heartily approve of the bill which is before us at this time.

I desire to commend the distinguished junior Senator from Oklahoma [Mr. MONRONEY] for doing another outstanding job. All of us who served with him in the House of Representatives, as well as all who now are serving with him in the Senate, know he never undertakes anything except with thoroughness and with a comprehensive understanding of his subject.

I know of no subject more important to the communities of the Nation and

the future of the Nation than the subject the Senator from Oklahoma is dealing with in this measure.

Mr. President, we appropriate billions of dollars each year. Some of those billions of dollars we send to other countries, in an attempt to promote peace and to be helpful in a unity of purpose against the threatening force of communism.

Mr. President, I hope we are not totally oblivious to the needs we have at home. I hope that other Senators who have responsibilities as chairmen of subcommittees or committees will, before the Congress adjourns, bring before the Senate measures such as the bill of the distinguished Senator from Louisiana [Mr. ELLENDER], for the development of our water resources—measures which we must enact if we are to keep our Nation strong and moving forward.

Mr. President, the Senator from Oklahoma [Mr. MONRONEY] has done a great job. Let me say to him and to the other members of his subcommittee—including the distinguished Senator from Florida [Mr. SMATHERS], who now is on the floor; the distinguished Senator from Kansas [Mr. SCHOEPPPEL]; the distinguished Senator from Maine [Mr. PAYNE]; and the distinguished Senator from Nevada [Mr. BIBLE]—that all of us are grateful to them for the thorough job done. As majority leader, I wish to express to those Senators my deep appreciation for the many arduous hours they have spent on this subject.

Mr. MONRONEY. Mr. President, I am deeply appreciative of the remarks of the majority leader.

Mr. President, let me say, in amplification of the statements which have been made regarding the defense needs, that inasmuch as we spend more than \$20 billion a year for military aircraft, and inasmuch as the civil aviation industry is spending hundreds of millions of dollars for new, faster, and better planes, it is high time for us to think of spending a few million dollars on places where those planes can safely land and safely take off with loads of passengers or with military armament.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 1855) was passed, as follows:

Be it enacted, etc., That paragraph (3) of section 2 (a) of the Federal Airport Act (49 U. S. C. 1101-1119) is amended to read as follows:

"(3) 'Airport development' means (A) any work involved in constructing, improving, or repairing a public airport or portion thereof, including the construction, alteration, and repair of airport passenger or freight terminal buildings and other airport administrative buildings and the removal, lowering, relocation, and marking and lighting of airport hazards, and (B) any acquisition of land or of any interest therein, or of any easement through or other interest in air space, which is necessary to permit any such work or to remove or mitigate or prevent or limit the establishment of, airport hazards; but such term does not include the construction, alteration, or repair of airport hangars."

Sec. 2. The first two sentences of subsection (a) of section 3 of such act are amended to read as follows:

"Sec. 3. (a) At least 3 months prior to the close of each fiscal year, the Secretary is here-

by authorized and directed to prepare and revise annually a national plan for the development of public airports in the United States, including the Territory of Alaska, the Territory of Hawaii, and Puerto Rico, and the Virgin Islands. Such plan shall specify, in terms of general location and type of development, the projects considered by the Secretary to be necessary to provide a system of public airports adequate to anticipate and meet the needs of civil aeronautics, which projects shall include all types of airport development eligible for Federal aid under this act and shall not be limited to any classes or categories of public airports."

SEC. 3. Section 4 of such act is amended to read as follows:

"SEC. 4. In order to bring about, in conformity with the National Airport plan prepared and from time to time revised as provided in this act, the establishment of a nationwide system of public airports adequate to meet the present and future needs of civil aeronautics, the Secretary of Commerce is authorized, within the limits of the obligation authority provided in section 5, to make grants of funds to sponsors for airport development as hereinafter provided."

SEC. 4. Section 5 of such act is amended to read as follows:

"SEC. 5. (a) For the purpose of carrying out this act with respect to projects in the several States, there are hereby authorized to be obligated by the execution of grant agreements pursuant to section 12 the sum of \$60 million for the fiscal year ending June 30, 1956, and a like sum for each of the fiscal years ending June 30, 1957, June 30, 1958, and June 30, 1959. Each such authorized amount shall become available for obligation beginning July 1 of the fiscal year for which it is authorized, and shall continue to be so available until so obligated.

"(b) For the purpose of carrying out this act with respect to projects in the Territories of Alaska and Hawaii, and in Puerto Rico and the Virgin Islands, there are hereby authorized to be obligated by the execution of grant agreements pursuant to section 12 the sum of \$3 million for the fiscal year ending June 30, 1956, and a like sum for each of the fiscal years ending June 30, 1957, June 30, 1958, and June 30, 1959. Each such authorized amount shall become available for obligation beginning July 1 of the fiscal year for which it is authorized, and shall continue to be so available until so obligated. Of each of the amounts authorized by this subsection, 45 percent shall be available for projects in the Territory of Alaska, 25 percent for projects in the Territory of Hawaii, 20 percent for projects in Puerto Rico, and 10 percent for projects in the Virgin Islands.

"(c) There are hereby authorized to be appropriated such amounts of money as may be necessary to liquidate obligations incurred as authorized by subsections (a) and (b).

"(d) There are hereby authorized to be appropriated such amounts of money as may be necessary for planning and research and for administrative expenses incident to the administration of this act. As used in this section, the term 'administrative expenses' includes expenses under this act of the character specified in section 204 of the Civil Aeronautics Act of 1938 (49 U. S. C. 424)."

SEC. 5. Section 6 of such act is amended to read as follows:

"SEC. 6. (a) As soon as possible after July 1 of each fiscal year for which an amount is authorized to be obligated by section 5 (a), 75 percent of the amount made available for that year shall be apportioned by the Secretary of Commerce among the several States, one-half in the proportion which the population of each State bears to the total population of all the States, and one-half in the proportion which the area of each State bears to the total area of all the States. Each amount so apportioned for a State shall, during the fiscal year for which it was first

authorized to be obligated and the fiscal year immediately following, be available only for grants for approved projects located in that State, or sponsored by that State or some public agency thereof but located in an adjoining State, and thereafter any portion of such amount which remains unobligated shall be redistributed and reapportioned as provided in subsection (c) of this section. Upon making an apportionment as provided in this subsection, the Secretary shall inform the executive head of each State, and any public agency which has requested such information, as to the amounts apportioned for each State. As used in this subsection the term 'population' means the population according to the latest decennial census of the United States and the term 'area' includes both land and water.

"(b) (1) Twenty-five percent of all amounts authorized to be obligated by section 5 (a) shall, as such amounts become available, constitute a discretionary fund.

"(2) Such discretionary fund shall be available for such approved projects in the several States as the Secretary may deem most appropriate for carrying out the national airport plan, regardless of the States in which they are located. The Secretary shall give consideration, in determining the projects for which such funds are to be so used, to the existing airport facilities in the several States and to the need for or lack of development of airport facilities in the several States.

"(3) Such discretionary fund shall also be available for such approved projects in national parks and national recreation areas, national monuments, and national forests, sponsored by the United States or any agency thereof, as the Secretary may deem appropriate for carrying out the national airport plan; but no other funds authorized under authority of this act shall be available for such purpose. The sponsor's share of the project costs of any such approved project shall be paid only out of funds contributed to the sponsor for the purpose of paying such costs (receipt of which funds and their use for this purpose is hereby authorized) or appropriations specifically authorized therefor.

"(c) Seventy-five percent of any amount apportioned for projects in a State pursuant to subsection (a) of this section which has not been obligated by grant agreement at the expiration of the 2 fiscal years for which such amount was so apportioned shall be reapportioned among the respective States in the manner of apportionment of the original authorization under subsection (a) and the remaining 25 percent of such amount shall be added to the discretionary fund established by subsection (b), and at the expiration of each succeeding fiscal year any of the amount so reapportioned for a State that still remains unobligated shall again be reapportioned and redistributed in the same manner."

SEC. 6. Section 8 of such act is repealed.

SEC. 7. The first sentence of subsection (d) of section 9 of such act is amended to read as follows: "All such projects shall be subject to the approval of the Secretary of Commerce, which approval shall be given only if he is satisfied that the project will contribute to the accomplishment of the purposes of this act, that sufficient funds are available for that portion of the project costs which is not to be paid by the United States under this act, that the project will be completed without undue delay, that the public agency or public agencies which submitted the project application have legal authority to engage in the airport development as proposed, and that all project sponsorship requirements prescribed by or under the authority of this act have been or will be met."

SEC. 8. The third sentence of section 12 of such act is amended to read as follows: "Each such offer shall state a definite amount

as the maximum obligation of the United States payable from funds authorized by this act, and shall stipulate the obligations to be assumed by the sponsor or sponsors of the project."

SEC. 9. All amounts authorized by section 4 of this act to be obligated for grants under the Federal Airport Act shall be additional to all amounts previously appropriated or authorized to be obligated for such purposes. Notwithstanding any other provision of this act, the balances of such previously appropriated or authorized funds which are unexpended and unobligated on the effective date of this act shall remain available for obligation and expenditure as originally appropriated or authorized.

COMPACT BETWEEN THE STATES OF CALIFORNIA AND NEVADA

Mr. JOHNSON of Texas. Mr. President, I have just received the report on Senate bill 1391. I ask unanimous consent for the present consideration of the bill, which is Calendar No. 640.

The ACTING PRESIDENT pro tempore. The bill will be read by title, for the information of the Senate.

The LEGISLATIVE CLERK. Calendar No. 640, Senate bill 1391, granting the consent of Congress to the States of California and Nevada to negotiate and enter into a compact with respect to the distribution and use of the waters of the Truckee, Carson, and Walker Rivers, Lake Tahoe, and the tributaries of such rivers and lakes in such States.

The ACTING PRESIDENT pro tempore. Is there objection to the request for the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (S. 1391) granting the consent of Congress to the States of California and Nevada to negotiate and enter into a compact with respect to the distribution and use of the waters of the Truckee, Carson, and Walker Rivers, Lake Tahoe, and the tributaries of such rivers and lakes in such States, which had been reported from the Committee on Interior and Insular Affairs, with amendments, on page 2, line 5, after the word "to", to insert "the President and to the"; and in line 10, after the word "and", to strike out "approved" and insert "consented to", so as to make the bill read:

Be it enacted, etc., That the consent of Congress is hereby given to the States of California and Nevada to negotiate and enter into a compact with respect to the distribution and use of the waters of the Truckee, Carson, and Walker Rivers, Lake Tahoe, and the tributaries of such rivers and lake in such States.

SEC. 2. Such consent is given upon the following conditions:

(1) A representative of the United States, who shall be appointed by the President of the United States, shall participate in such negotiations and shall make a report to the President and to the Congress of the proceedings and of any compact entered into; and

(2) Such compact shall not be binding or obligatory upon either of such States unless and until it has been ratified by the legislature of each of such States and consented to by the Congress of the United States.

SEC. 3. The right to alter, amend, or repeal this act is hereby expressly reserved.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, the amendments will be considered en bloc.

The question is on agreeing to the amendments of the committee.

The amendments were agreed to.

Mr. JOHNSON of Texas. Mr. President, this bill was not included with the other bills listed, because the report on this bill was not then available.

The bill has been cleared with the minority leader. As a matter of fact, he is the author of the bill, which has been reported by the Senator from Nevada [Mr. BIBLE].

Mr. President, the bill would give the consent of Congress to the States of California and Nevada to negotiate and enter into a compact with respect to the distribution and use of the waters of the Truckee, Carson, and Walker Rivers, Lake Tahoe, and tributaries of those streams and the lake.

The ACTING PRESIDENT pro tempore. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1391) was ordered to be engrossed for a third reading, read the third time, and passed.

MULTIPLE USE OF THE PUBLIC LANDS

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 559, Senate bill 1713. I desire to have this bill made the unfinished business.

The ACTING PRESIDENT pro tempore. The bill will be read by title for the information of the Senate.

The LEGISLATIVE CLERK. Calendar No. 559, Senate bill 1713, to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Texas that the Senate proceed to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (S. 1713) to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws, to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments.

ORDER FOR CALL OF THE CALENDAR ON MONDAY

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that on Monday, June 27, there be a call of the calendar of bills and other measures on the calendar to which there is no objection, and that the call begin with Calendar No. 589, Senate Concurrent Resolution 42, favoring the suspension of deportation in the case of certain aliens.

The ACTING PRESIDENT pro tempore. Is there objection to the request

of the Senator from Texas? The Chair hears none. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO MONDAY

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that when the Senate concludes its business for today—and we shall remain in session today as long as may be necessary in order to accommodate any Senator—the Senate stand in adjournment until noon, on Monday next.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Texas? The Chair hears none, and it is so ordered.

LEGISLATIVE PROGRAM

Mr. JOHNSON of Texas. Mr. President, I may state that probably on Monday the Senate will consider, by motion, Calendar No. 559, Senate bill 1713, to amend the act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes; Calendar No. 361, Senate bill 51, to amend the act entitled "To confer jurisdiction on the States of California, Minnesota, Nebraska, Oregon, and Wisconsin, with respect to criminal offenses and civil causes of action committed or arising on Indian reservations within such States, and for other purposes; and Calendar No. 586, Senate Joint Resolution 21, to establish a Commission on Government Security.

Mr. President, I have a brief statement to make, and then I shall yield the floor.

As all Senators will observe from the calendar which is on the desk of each Senator—and I refer to the calendar, as printed, for Friday, June 24, 1955—the Senate has considered the urgent and second deficiency appropriation bills; the additional Department of Justice appropriation bill; the Treasury-Post Office appropriation bill; the second supplemental appropriation bill; the Interior Department appropriation bill; the Agriculture Department appropriation bill; and the Independent Offices appropriation bill. Those bills have gone to the President, the conference report on the independent offices appropriation bill having been agreed to only yesterday by the Senate.

The State-Justice-Judiciary appropriation bill for 1956 was passed in the Senate on May 31, but I regret to say that it was not until June 23 that the other body sent that bill to conference. It is my information that it is now planned for the conferees to meet on that bill at 1 o'clock on Wednesday next. I regret that that bill has been held up from May 31 to June 23, but I am hopeful that the conferees can agree on Wednesday, so that the bill can be sent to the White House before the end of the fiscal year, on Thursday.

The Department of Defense appropriation bill came to the Senate on May 13. It passed the Senate on June 20. It is my information that the conference will be held on that bill at 10 o'clock on Wednesday next.

The Commerce Department appropriation bill was received in the Senate on May 25. The Senate acted on that bill and passed it on June 16. On that date the Senate conferees were appointed and the Senate asked for a conference. It is my information that no conferees have been appointed by the other body. I am hopeful that, in the early part of the week there can be a conference on that bill. The distinguished chairman of the subcommittee [Mr. HOLLAND] tells me that he is hopeful that there will be a conference on Tuesday on the Commerce Department appropriation bill.

The general Government matters appropriation bill has already gone to the White House.

With respect to the Labor-Health, Education, and Welfare appropriation bill, the conferees were appointed by the Senate on June 6. I understand that on June 22 the other body appointed conferees, and we hope that they can meet and reach a decision, and that that bill can be sent to the White House before the end of the fiscal year.

Therefore, the Commerce, Defense, State-Justice, and Labor-HEW appropriation bill, four principal appropriation bills acted on some time ago, are still in conference. If the conference committees can report, of course, those reports will have priority, because we want to send those bills to the White House before the end of the fiscal year.

That leaves us only with the public-works bill, which the other body has passed. That bill was received from the other body on June 17. I am informed by the distinguished Senator from Louisiana [Mr. ELLENDER], chairman of the subcommittee, that although the bill was received as recently as June 17, it is hoped that he can submit a report to the Senate on that bill some time next week.

Hearings will begin on the legislative appropriation bill next week, and we hope to meet the deadline with respect to that bill.

That will leave only the usual supplemental bill, and the foreign aid bill. As Senators know, action was taken by this body sometime ago on the authorization bill, and as soon as the foreign aid authorization bill passes the House, I am sure the Senate Committee on Appropriations will be ready to take action.

Mr. President, I have never known of a better job by any committee than the one performed under the chairmanship of our beloved and distinguished senior colleague from Arizona [Mr. HAYDEN]. Each and every member of his committee has been untiring. They have been thorough and painstaking and devoted to their task. I wish to express my personal appreciation to them, and express the hope that the conferees may be able to schedule conferences on remaining bills so that when the curtain is rung down at the end of this fiscal year it will not be said that appropriation bills are stacked up in the Senate awaiting action.

As all Senators know, through the years the other body has had a long history of precedents behind it in initiating appropriation bills. Not all of us agree with this interpretation. Of course, under the Constitution, tax measures and

other revenue-raising measures must originate in the House of Representatives. It has been concluded that that principle can be stretched to include appropriation bills.

Notwithstanding that fact, the Senate Appropriations Committee has kept in step with the fine work done by the other body, and I am hoping that the two bodies can coordinate their efforts so that every bill except the foreign-aid bill can be sent to the White House before the end of the fiscal year.

I wish Senators to be prepared, if necessary, to remain in session until a late hour on Tuesday and Wednesday, in case there should be any controversies with respect to any of the conference reports, because we are determined to meet the deadline if we can.

For the information of Senators, I should say that it is hoped—and I emphasize, capitalize, and repeat, "hoped,"—by the leadership that if we make as much progress next week as we have made this week, if we continue to operate in the spirit of harmony, unity, and cooperation which has prevailed during this entire session, on the part of all Members of the Senate, we may be able to adjourn or recess from next Friday until the following Tuesday. I make this announcement in order that Senators may make their plans accordingly. Of course, I can never control the Senate. Neither can the majority leader and the minority leader together control it. The program of the Senate is a matter for the Senate itself. But we are hoping that there will be no roll calls on Friday, and we shall do our best not to schedule controversial legislation on Tuesday.

What are some of the things which might disrupt such a program? They are messages of which we are unaware, reports on important legislation which must be considered, delay in conference committee reports, and matters of that kind.

I have hope and I have faith—and I am justified in that faith and hope in the Senate and in the Members of the Senate—that we will get our conference reports. I also believe that we will have the Public Works Appropriation bill before the Senate for some general discussion. I hope—and the minority leader shares that hope—that we will be able to recess or adjourn from Friday of next week until the following Tuesday, without any roll call either on Friday or on Tuesday. We will do that if it meets the pleasure of the Senate, and unless something unforeseen develops. If something unforeseen develops, I shall immediately call it to the attention of the Senate.

We have had another very productive week. I know the majority leader expresses the gratitude not only of himself but of the minority leader in saying that they are indebted to all Senators who have been so helpful.

INVESTIGATION OF URANIUM SUPPLIES

Mr. BARRETT. Mr. President, this year marks the 10th anniversary of the end of the most destructive and devastating war in the history of mankind.

Down through the years the inhumanity of wars has become increasingly more terrifying with each succeeding age. The concept that only the soldier's life was in mortal danger was discarded with the commencement of hostilities in the last world war.

We had no recourse except to level the productive plants of the enemy with the terrible 10-ton blockbusters that took their toll in the lives of countless noncombatants, men, women and children. How many people, Mr. President, were able to evaluate the catastrophic change in waging of war that came with the bombing of Hiroshima and Nagasaki? It could not be worse, we thought. A whole city was snuffed out in a split second by bombs with the power of 20,000 tons of TNT. But, Mr. President, the events of the last 10 years proved we were terribly mistaken.

In 1951 it was difficult to comprehend the destructive force of bombs with an intensity of 500,000 tons. Then in 1952 came the hydrogen model, packed with the incomprehensible charge of 10 million tons of TNT. By what yardstick can an ordinary human measure the fury of such superbombs? How many people can fathom the explosive effect of one such bomb, let alone hundreds or thousands? Is it any wonder the President saw fit to take his entire Cabinet and executive force to a hideaway in a civil-defense practice session on a simulated bomb attack? It may well be that civilization itself is at the crossroads. The meeting at the summit may offer men of good will the last clear chance for peace. Let us hope that an agreement can be reached to outlaw the atomic bomb guaranteed by the right of international inspection. How much better this old world would be if we could but use this great secret for the benefit of man rather than for his destruction.

In the light of all of these facts, Mr. President, is it any wonder that there has been such a mad scramble for uranium in these last 10 years? At first we were obliged to look abroad for our supply of uranium, and late in 1942 a supply was found in the Belgian Congo. Shortly thereafter, the Atomic Energy Commission set out on a program designed to encourage private enterprise to make an intensive search for this precious mineral. The bonus and inducements were adequate to send thousands upon thousands of prospectors into the remote areas of every section of the land. The discoveries in the Colorado plateau have exceeded the fondest expectations of most every leader in the field. As might be expected, Mr. President, shortly the search for uranium moved over from Colorado to my State of Wyoming.

Before long some rather rich, though isolated, deposits of uranium were discovered in the Pumpkin Butte area of northeastern Wyoming. The Atomic Energy Commission made a preliminary investigation and in order to explore the area rather thoroughly caused the Secretary of the Interior to issue Order No. 811 on March 7, 1952, withdrawing some 65,343 acres of land in that area from filing of mineral claims. I ask unanimous consent that a copy of that order

be inserted in the body of the RECORD at this point.

There being no objection, the order was ordered to be printed in the RECORD, as follows:

UNITED STATES DEPARTMENT OF THE INTERIOR—
CODE OF FEDERAL REGULATIONS—TITLE 43—
PUBLIC LANDS

CHAPTER I.—BUREAU OF LAND MANAGEMENT

Appendix—Public land orders

Public Land Order 811—Wyoming—Withdrawing Public Lands and Reserved Minerals in Patented Lands for Use of the United States Atomic Energy Commission

By virtue of the authority vested in the President and pursuant to Executive Order No. 9837 of April 24, 1943, it is ordered as follows:

The public lands and the minerals reserved to the United States in patented lands in the following-described areas in Wyoming are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining but not the mineral-leasing laws, and reserved for the use of the United States Atomic Energy Commission:

Sixth Principal Meridian:

T. 42 N., R. 75 W., secs. 5 and 6.

T. 43 N., R. 75 W., secs. 3 to 12, inclusive; secs. 15 to 22, inclusive; secs. 28 to 32, inclusive.

T. 44 N., R. 75 W., secs. 31 to 34, inclusive; T. 42 N., R. 76 W., secs. 1 to 5, inclusive; secs. 7 to 11, inclusive; secs. 16 to 21, inclusive; secs. 29 and 30.

T. 43 N., R. 76 W., secs. 1 to 5, inclusive; secs. 8 to 17, inclusive; secs. 20 to 29, inclusive; secs. 32 to 36, inclusive.

T. 44 N., R. 76 W., secs. 11 to 16, inclusive; secs. 21 to 28, inclusive; secs. 32 to 36, inclusive.

T. 42 N., R. 77 W., secs. 22 to 27, inclusive. The areas described, including both public and nonpublic lands, aggregate approximately 65,343.29 acres.

Any tract or tracts of land within the above-described areas to which valid claims have attached under the public-land laws prior to the date of this order, are excluded from the reservation hereby made: *Provided, however*, That upon the abandonment or extinguishment of such claims for any cause, the reservation shall immediately become effective as to such tract or tracts and the minerals therein.

The reservation made by this order shall be subject to existing withdrawals affecting any of the lands.

OSCAR L. CHAPMAN,
Secretary of the Interior.

MARCH 7, 1952.

Mr. BARRETT. Mr. President, when the Atomic Energy Commission had concluded its survey of the area, it called upon the Secretary of the Interior to lift the withdrawal and that action was taken by Public Land Order 1043, dated December 28, 1954. I ask unanimous consent that a copy of order 1043 be inserted in the body of the RECORD at this point.

There being no objection, the order was ordered to be printed in the RECORD, as follows:

UNITED STATES DEPARTMENT OF THE INTERIOR—
CODE OF FEDERAL REGULATIONS—TITLE 43—
PUBLIC LANDS

CHAPTER I. BUREAU OF LAND MANAGEMENT

Appendix—Public land orders

Public Land Order 1043—Wyoming—Revoking Public Land Order No. 811 of March 7, 1952, Which Withdrew Public Lands and Reserved Minerals in Patented Lands for Use of the United States Atomic Energy Commission

By virtue of the authority vested in the President and pursuant to Executive Order

No. 10355 of May 26, 1952, it is ordered as follows:

Public Land Order No. 811 of March 7, 1952, withdrawing public lands and the minerals reserved to the United States in patented lands in the following described areas in Wyoming for use of the United States Atomic Energy Commission, is hereby revoked:

Sixth principal meridian:

T. 42 N., R. 75 W., secs. 5 and 6.

T. 43 N., R. 75 W., secs. 3 to 12, inclusive; secs. 15 to 22, inclusive; secs. 28 to 32, inclusive.

T. 44 N., R. 75 W., secs. 31 to 34, inclusive.

T. 42 N., R. 76 W., secs. 1 to 5, inclusive; secs. 7 to 11, inclusive; secs. 16 to 21, inclusive; secs. 29 and 30.

T. 43 N., R. 76 W., secs. 1 to 5, inclusive; secs. 8 to 17, inclusive; secs. 20 to 29, inclusive; secs. 32 to 36, inclusive.

T. 44 N., R. 76 W., secs. 11 to 16, inclusive; secs. 21 to 28, inclusive; secs. 32 to 36, inclusive.

T. 42 N., R. 77 W., secs. 22 to 27, inclusive.

The areas described, including both public and nonpublic lands, aggregate approximately 65,343.29 acres.

The public lands released from the withdrawal are located approximately 25 miles east of Kaycee, Wyo. They are generally situated on the Powder River-Belle Fourche-Cheyenne Rivers Divide. The most prominent topographic feature is the Pumpkin Buttes which rises several hundred feet above the surrounding land. The topography of the remaining land varies from nearly level to rough. The soils vary from clay to sandy clay loam and are generally unsuited to crop production. These soils support a mixture of grass and sagebrush and for the most part the vegetation is in good condition. All of the public lands involved are under grazing lease.

No application for the lands may be allowed under the homestead, desert-land, small-tract, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

This order shall not otherwise become effective to change the status of the described lands until 10 a. m. on the 35th day after the date of this order. At that time the said lands shall become subject to application, petition, location, and selection, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable laws, and the 91-day preference-right filing period for veterans and others entitled to preference under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284), as amended.

Veterans' preference-right applications under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284), as amended, may be filed on or before 10 a. m., on the 35th day after the date of this order, and those covering the same lands shall be treated as though simultaneously filed at that time. Applications filed under the act after that time and during the succeeding 91 days shall be considered in the order of filing. Applications by the general public under the public-land laws, filed on or before 10 a. m. on the 126th day after the date of this order shall be treated as though simultaneously filed at that time, where the applications are for the same lands; otherwise, priority of filing shall govern.

Inquiries regarding the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Cheyenne, Wyo.

FRED G. AANDAH, Jr.,

Assistant Secretary of the Interior.

DECEMBER 28, 1954.

Mr. BARRETT. Mr. President, immediately after it was apparent that the

land would be opened again to mining claims, there was a mad rush to the area from every corner of the country. Farmers and ranchers complained bitterly that prospectors were running promiscuously over their lands. The opening of the area was set for May the 3d. This was about as inopportune a time as could have been designated as far as livestock men were concerned, for the reason that lambing and calving operations were then in full swing. One young rancher testified:

My grandfather was on the land my family now occupies. He was there in territorial days * * * We raise good enough cattle to be able to win prizes at the American Royal Livestock Exposition * * * We suffer a loss of grass. We suffer this when our land is stripped for mining purposes. But we also suffer it when prospectors run over the land in heavy vehicles.

Where one prospector knew the type of ownership of the land in the area, at least a hundred were uninformed. It was to be expected that serious difficulties would arise under these circumstances and there was every indication that the lives of the farmers and the prospectors alike would be jeopardized if filings were to be permitted on May 3. The entire Wyoming congressional delegation and the Governor of Wyoming requested Secretary of the Interior McKay to investigate the situation with the idea in mind of revoking the order of December 28 lifting the withdrawal.

The Secretary requested his Area Administrator at Denver, Westal B. Wallace, to make a thorough study of the whole matter and to file a report. The report recommended that order No. 1043 be revoked and by order 1138, dated April 27, 1955, that action was taken. I ask unanimous consent, Mr. President, to insert in the body of the RECORD at this point a copy of order No. 1138.

There being no objection, the order was ordered to be printed in the RECORD, as follows:

UNITED STATES DEPARTMENT OF THE INTERIOR—
CODE OF FEDERAL REGULATIONS—TITLE 43—
PUBLIC LANDS

CHAPTER I. BUREAU OF LAND MANAGEMENT

Appendix—Public land orders

Public Land Order 1138—Wyoming—Revoking Public Land Order No. 1043 of December 28, 1954

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Public Land Order No. 1043 of December 28, 1954, revoking Public Land Order No. 811 of March 7, 1952, which latter order withdrew the public lands and the minerals reserved to the United States in patented lands in the following-described areas in Wyoming for use of the United States Atomic Energy Commission is hereby revoked:

Sixth principal meridian:

T. 42 N., R. 75 W., secs. 5 and 6.

T. 43 N., R. 75 W., secs. 3 to 12, inclusive; secs. 15 to 22, inclusive; secs. 28 to 32, inclusive.

T. 44 N., R. 75 W., secs. 31 to 34, inclusive.

T. 42 N., R. 76 W., secs. 1 to 5, inclusive; secs. 7 to 11, inclusive; secs. 16 to 21, inclusive; secs. 29 and 30.

T. 43 N., R. 76 W., secs. 1 to 5, inclusive; secs. 8 to 17, inclusive; secs. 20 to 29, inclusive; secs. 32 to 36, inclusive.

T. 44 N., R. 76 W., secs. 11 to 16, inclusive; secs. 21 to 28, inclusive; secs. 32 to 36, inclusive.

T. 42 N., R. 77 W., secs. 22 to 27, inclusive. The areas described, including both public and nonpublic lands, aggregate approximately 65,343.29 acres.

The lands withdrawn by Public Land Order No. 811 remain subject to that order.

ORME LEWIS,

Assistant Secretary of the Interior.

APRIL 27, 1955.

Mr. BARRETT. Mr. President, when the Secretary of the Interior rescinded the order opening the Pumpkin Butte area, Governor Simpson joined with the entire Wyoming delegation in Congress in assuring the Secretary that steps would be taken to disseminate information regarding the respective rights of both the landowners and the prospectors who desired to file mining claims in the area.

Accordingly, Mr. President, when Clifford Hansen requested that I invite a number of Government officials to participate in a panel discussion on the problems involved in that controversy on the final day of the convention of the Wyoming Stock Growers' Association, I immediately felt that here was an opportunity to begin an informative program. However, I felt that a 1-day session would be insufficient, and I was pleased to learn that Byron Wilson, the president of the Wyoming Natural Resource Board, had called a meeting the day following the Stock Growers' meeting to explore further the situation. Thereafter the Senator from Montana [Mr. MURRAY], the chairman of the Senate Interior Committee, designated my colleague [Mr. O'MAHONEY] as chairman of a subcommittee to hold an official committee meeting on the uranium problem with the idea in mind of considering the advisability of legislation. Accordingly, Mr. President, a three-prong attack on the overall problem was made—

First, by addresses and panel discussion at the Wyoming Stock Growers' convention Thursday afternoon and evening, June 9, Clifford Hansen, president, presiding;

Second, by speeches and panel discussions at the meeting of the Wyoming Natural Resource Board Friday morning, Byron Wilson presiding; and

Third, by the meeting of the subcommittee Friday afternoon and evening, the Senator from Wyoming [Mr. O'MAHONEY] presiding.

Every person expressing a desire was given an opportunity to be heard at one or more of the sessions.

For the sake of convenience, I have grouped the papers delivered at each session together. I ask unanimous consent to have printed in the body of the RECORD at this point the addresses delivered by, first, Clifford Hansen, president, Wyoming Stock Growers' Association; second, William G. Waldeck, attorney at law, Montrose, Colo.; third, Robert McPhillamey, deputy attorney general, Cheyenne, Wyo.; fourth, Edward Woolley, director, Bureau of Land Management; fifth, Eugene W. Grutt, Jr., chief, Casper, Wyo., office of Atomic Energy Commission; sixth, William N. Sharp, geologist, United States

Geological Survey, Denver, Colo.; seventh, Sheldon P. Wimpfen, manager, Atomic Energy Commission office, Grand Junction, Colo.; and eighth, Gov. Milward L. Simpson, Governor of Wyoming.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF CLIFFORD HANSEN

Senator BARRETT, Senator O'MAHONEY, Representative THOMSON, distinguished representatives of the Interior Department, Forest Service, Atomic Energy Commission, United States Geological Survey, American Mining Congress, the people of the State of Wyoming and the West appreciate your coming to our great State. We look to you for guidance in seeking solutions to some of our problems.

The State of Wyoming, and indeed all of the so-called public-land States, are not as fortunate as were the earlier States in the Union. Many different reservations by the Federal Government have complicated the pattern of land use and land management.

Nearly all of the ranches in Wyoming embrace some fee land, of which the rancher has complete ownership. But, in addition, on a great deal of the pastureland the livestockman owns only the surface, the minerals having been reserved by the Federal Government. Still other tracts featuring prominently in a typical operation are the BLM Taylor lands, and forest reserves. On these, the ownership is vested in the Federal Government. The rancher has a permit or a lease to use or graze the area; a definite grazing season is established, and the number of animals that can be grazed is fixed. While the Taylor Grazing Boards exercise a fair amount of authority, the advisory boards to the Forest Service have little to do in determining policy.

Many of the lands of the West would not have been settled if it had not been possible to get the use of the adjacent Federal lands.

The stockman must depend on the crop of grass that grows annually for feed for his stock.

If, as is happening daily in Wyoming, the use of these lands by others interferes with the normal grazing of livestock, or the continued traversing of grasslands by car and truck destroys the crop, the rancher has been dealt a severe blow. He has lost the only use he can make of his property for the season.

Claims have been staked on waterholes, reservoirs, trails, and wells. If the validity of the claim is upheld, the precariousness of the rancher's investment becomes apparent. These features of any ranch are important. In the arid West they are key areas, indeed, and to lose them could well destroy the value of a complete outfit.

The threat that is posed by the search for minerals on lands wherein they are reserved is not confined to those lands. The trespassing on other lands goes on without interruption.

The crazy-quilt pattern of ownership precludes a prospector from staying only on those lands whose underlying minerals are reserved by the Federal Government. Jeep trails, bulldozer tracks, and truck roads are creating serious erosion problems.

These, then, are some of the problems that must be faced. The average rancher appreciates the great urgency of the Government's having an adequate inventory and supply of strategic minerals. We feel sure it is the desire of the Government to inconvenience and damage us as little as possible.

When Senator BARRETT arranged for all these officials to participate in this panel discussion, it was suggested that if questions could be forwarded to him in advance of the convention that the Department officials would prepare answers in writing. After the addresses scheduled on our program we will proceed to the question and answer panel.

URANIUM PROSPECTING AND STOCKMEN

(By William G. Waldeck, attorney at law, Montrose, Colo.)

With the arrival of warm weather, nature seems to bestir all her creatures with new energy and activity. All manner of beings materialize from no one knows where, or increase their numbers greatly and begin to swarm upon the face of the earth. One such is that newly detected species in the Wyoming regions, the uranium prospector. Armed with Geiger counter and scintillometer, very often propelled by jeep or pickup, they descend in flocks and swarms upon any likely looking piece of ground. The prospector may be amateur or professional, the part-time hunter for ore with a job nearby, or a full-fledged representative of an established company with big holdings. Of whatever variation, he is apt to be distinguished by persistence, ingenuity, and an astonishing mobility. One day he is nowhere in sight, the next day he and his companions are at it full tilt with pick, shovel, hammer, and, perhaps, even a bulldozer, in every crevice and every draw. And yet, it might be said in defense of the activities of this energetic species that he has helped to change us from a have-not uranium country to one of the major world producers.

As stockmen, however, whose livelihood depends on the grazing lands upon which this same prospecting is being conducted, you have a necessarily great interest in knowing the relative rights of the user of the surface of lands and the rights of the mining prospector or claimant.

On lands which are classified as public lands, regardless of whether they are a part of the public domain or are included within a national forest, a prospector has free right of entry for the purpose of staking of mining claims and mining. This is true regardless of whether the grazing rights on the land have been allotted under the Taylor Grazing Act or by forest permit. In addition, the mining laws, as presently constituted, would apparently grant to the mining claimant the right of exclusive possession of the claim, including the right to use the surface resources.

Of course, in the case of privately owned lands in which the owner possesses mineral rights as well as surface rights, a prospector has no right to prospect or locate mining claims. The lands are not open to entry under the mining laws and an attempted entry upon such lands is a trespass. In order to explore such lands for mineral an exploration contract, license or lease must be obtained from the landowner.

In many instances, however, the mineral rights are owned separately from the surface rights and the owner of the surface rights does not have title to the mineral rights. Often the separation or severance of the mineral rights from the surface rights has been accomplished by the owner of the land conveying away the mineral rights to another, or by a prior owner's reserving unto himself the mineral rights when conveying the land to another. In like manner, a type of severance of the mineral estate comes about in cases where the mineral rights are leased to another for mining purposes. Such a severance of surface and mineral rights, however accomplished, creates two separate estates or sets of rights with respect to the land.

The surface estate, because of the separation, is burdened in several ways by the mineral estate. For example, a severance of minerals by conveyance or reservation to another implies that the mineral claimant has a right-of-way for access on and across the surface of the land for the purpose of prospecting, mining, developing, drilling, and other activities reasonably necessary for the enjoyment of the mineral rights. The owner of the minerals has the right to sink shafts,

drive drifts, or make other excavations into the surface, including stripping operations where reasonably necessary for the type of mineral deposit encountered. In like manner, after drifts and shafts have been excavated and mineral removed, the mineral claimant has the right to continue to utilize such openings and passages in any manner reasonably necessary, including the use for access to adjoining property. He has a right to occupy so much of the surface as reasonably necessary for camps, ore bins, stowing of machinery, and other purposes required for mineral development. Generally, the mineral claimant has the right to employ the surface in all ways reasonably necessary for the enjoyment and utilization of the mineral rights. The mineral claimant, however, is required to utilize his rights in such a way as not to interfere unreasonably with the rights of the surface. To this end he is required to take reasonable precautions to prevent subsidence, to fence dangerous shaft openings, and to conduct blasting in a prudent manner so as not to imperil the improvements of the surface owner.

Several of our Federal laws have resulted in a severance of mineral rights from the surface rights, the most important of which was the Stock Raising Homestead Act of 1916. The law provided for the patenting of lands for stockraising purposes, but reserved the mineral rights to the United States together with the right of qualified persons under Federal law to enter upon the patented lands, prospect for and mine, and remove the minerals found thereon.

The law provided that although persons had the right at all times to enter upon the patented lands for prospecting purposes, still they would be liable to the surface owner for damage to improvements or crops. In the event of the location of a mining claim, the claimant was given the right by the act to reenter the lands, occupy so much of the surface as reasonably necessary, and mine and remove the discovered deposit, provided the claimant either:

1. Obtained written consent from the surface owner;
2. Paid for damage to crops and tangible improvements; or
3. Posted a bond to insure surface owner against damage to improvements or growing crops.

It has been held by the Supreme Court of Colorado in construing this act that a person is not required to post a bond in order to enter upon lands for the purpose of prospecting or even locating a mining claim, although the person would be liable for damages actually caused. It is only after the claim is located and the claimant "re-enters" for the purpose of mining or development that he is required to obtain permission or post the required bond.

The bond which must be posted must be in an amount of not less than \$1,000 and must be filed with the manager of the Bureau of Land Management Office having jurisdiction over the lands in question. The mining claimant must serve a copy of the bond upon the surface owner who has a period of 30 days in which to object to the bond—either the amount thereof or the sureties. If no objection is made, the BLM may approve the bond. If an objection is made, the BLM hears the objections and either approves or disapproves the bond, from which decision an appeal may be taken to the Director of BLM. The bond is to insure the payment of damages to the crops or tangible improvements of the surface owner as might be determined by a court of competent jurisdiction.

It has been determined that a patentee or surface owner under the Stock Raising Homestead Act has no preferential right to obtain the minerals under his lands, but stands in the same position as any others, except, of course, he need not post a bond or obtain permission to mine upon the land.

The wording of the act with respect to damage is rather narrow. The act provides that a person prospecting or mining is liable for damages to the "permanent improvements" or tangible improvement and "crops" of the surface owner. The narrowness of this definition led to the passage of an act in 1949 which provided that in addition to liability for damage to crops and improvements, a person mining by open pit or strip methods would be liable for damage caused to the value of the land for grazing purposes as well.

It will not be my purpose to attempt to discuss the requirements of State law of Wyoming as it applies to this problem since we have the deputy attorney general of Wyoming present who is of course much more qualified to speak upon this subject, in general, however, whether it be Wyoming or elsewhere one of the most resented factors in the location of mining claims upon patented lands is the necessity found in most State statutes for the performance of certain location work in order to locate a mining claim. Until quite recently this location work generally took the form of excavation of a discovery shaft or pit, generally to depth of 10 feet which was required to reveal mineral in place. The purpose of requiring such location work was threefold: (1) To require the claimant actually to expend some time and effort upon the claim and thus demonstrate his good faith, (2) to demonstrate visually that a discovery of mineral had been made, and (3) to tie down the location of the claim upon the ground by making an actual scratch or excavation on the face of the earth.

In practice, particularly in uranium mining claims, such a discovery pit has accomplished few of these purposes, perhaps only the last. In most cases the excavation of the shaft has been nothing more than a bulldozer cut in the soil which might serve as a boghole for sheep in wet weather or as a start for erosional processes on hillsides, but has done little to demonstrate the good faith of the claimant. In regard to the second purpose, the demonstration of a discovery—most of such discovery pits do not even reveal rock in place, much less mineralization. In most instances of claims away from outcrops, the ore horizon is found from 25 to several hundred feet below the surface. In order to make a discovery of the mineral it is usually necessary to conduct drilling operations or employ geophysical methods. It is true that the presence of the discovery shaft—if it is excavated deep enough so that it does not disappear in the first spring freshet—serves as a sort of restraint on the tendency of mining claims to float aimlessly about in search of an ore body to alight upon. If the claim is described with respect to the discovery shaft, it might be possible for the claim to spin around the point at which the shaft is located, but it would be a little more difficult for the claim to actually weigh anchor and sail down the canyon.

Because of the inapplicability of the discovery shaft statutes to uranium mining conditions, several of the Western States have modified their statutes to provide alternate means of locating a mining claim. The State of Wyoming, as will doubtlessly be discussed before you today, has provided a means whereby exploratory drilling can be substituted for the discovery shaft. This is certainly a much more sensible means of demonstrating good faith and revelation of a discovery—although as far as the particular stockman is concerned, I think it is at least debatable which causes the most damage to a range, the excavation of a pit, or the construction of several drill roads and drill sites.

In Colorado an alternative method has been provided to locate a mining claim other than by digging a discovery pit. This alternate method provides for the filing of a map with the location certificate of the claim,

prepared from an actual field survey and showing the position of the mining claim upon the ground. This requirement fulfills the purpose of requiring a demonstration of good faith upon the part of the claimant and once and for all ties down the location of the mining claim and makes it earth-bound. Admittedly, the procedure does not fulfill the purpose of requiring a demonstration of the discovery of mineral, but modern means of the detection of the presence of mineral are becoming so numerous and unique that it was thought best to allow the determination of the existence of a discovery of mineral to be made upon the basis of the principles of the much broader and more general Federal law. It is true, however, that regardless of whether discovery pits or exploratory drilling is required for location work upon the claims, still a considerable amount of drilling and the excavation of access openings into ore deposits will be required if a particular claim is to be developed and mined. Such activities will of necessity impose damage to some extent upon the surface estate. The protection of the surface owner, as mentioned before is to be found in the terms of the stock raising homestead statute.

Much of the land in Wyoming as elsewhere in the West has not been patented but remains a part of the public domain. The grazing resources of such lands are utilized by stockraisers either under the provisions of the Taylor Grazing Act or under administration of the Forest Service. Much of this land is subjected to prospecting and the location of numerous claims. As mentioned before, a qualified person has a free right at any time to enter upon the unappropriated public lands for the purpose of prospecting or location of mining claims. Of late a great amount of criticism of so-called abuses of the mining laws has been levied by groups interested in the various uses of the public lands. Much of this criticism has been ill informed and often misleading. It is difficult to escape the fact, however, that there are those who have located mining claims for purposes entirely foreign to mining enterprise. Since a mining claim is said to carry with it exclusive right to the possession of the area encompassed within its boundaries as well as the right to mine the minerals below the surface, it is not surprising to find that attempts are made to locate claims to obtain water holes, grazing, timber that may exist on the surface, or for the purpose of building summer homes, resorts, or other businesses upon the land obtained. The legitimate miner makes no excuse and does not support the activities of those who would utilize the mining laws for such purposes. The primary aim of the mining industry remains that their rights to prospect for, develop, and mine the mineral resources of the public lands be not impaired. Legislation has recently been introduced and is now pending in Congress which is aimed at the purpose of preventing the misuse of the mining laws by those not interested in mineral development. It is greatly encouraging to note that responsible representatives of the mining industry generally have given this legislation their support. S. 1713 which is now pending in Congress is directed to the purpose of preserving and protecting the rights of users of the surface and vegetative resources of the public lands while rendering the lands available for mining enterprises. The bill provides that claims located following the passage of the act shall not be used prior to the issuance of patent for any purpose other than prospecting, mining, or processing operations and uses reasonably incident thereto. Such claims prior to patent shall be subject to the right of the United States to manage and dispose of the vegetative surface resources and to manage other surface resources on the land encompassed within the mining claim. In addition, the mining claim is subject to the right of the

permittees and licensees of the United States to utilize so much of the surface of the claim as necessary to achieve such purpose. These reserved rights, however, are subject to the rights of use of the surface and its resources by the mining claimant to the extent required for the mining claimant's prospecting, mining, or processing operations and uses reasonably incident thereto. This legislation represents another step in the direction of the encouragement of the maximum economic utilization of our land resources through multiple use. No legislation is a panacea cure for all of the world's problems. This legislation, however, appears to represent a sensible and equitable approach to a long festering problem.

The conflicting interests of the mineral claimant and the stock raiser do not represent the first controversy which has occurred in the development of the West. In the early days of the frontier, bitter conflicts raged between the open range cattle ranches and agricultural settlers who came into the area to homestead. The interests of the raiser of cattle clashed violently at times with the sheep raiser. The real story of strength and development in the history of the West, however, is not to be found in these conflicts which raged in the area, nor in the subjection of one group to the interests of another. It is to be found rather in the successful resolution of these conflicts, in the development of means by which each group could live in harmony with the other and pursue its own particular occupation. In like manner, the resolution of the problems which face the mineral claimant and the stock raiser and the development of a means wherein both may pursue their legitimate goals, represents the road to increased strength, economic development, and prosperity from our abundant western resources.

STATEMENT BY ROBERT MCPHILLAMEY, DEPUTY ATTORNEY GENERAL, CHEYENNE, WYO.

It has been estimated that there have been more man-hours converted to the search for uranium by the public, than for all other metals and ores combined. What was a few years ago an ordinary rock has become the potential of a valuable ore. Colleges are conducting classes in the use of Geiger counters and how to recognize uranium when you see it. A fever has enveloped our populace which has all the elements of an epidemic. Transportation has made it possible for the ordinary man to spend his weekends and vacations in the search for uranium and dreams of wealth.

The development of the "jeep" has made it possible to invade grounds which were heretofore inaccessible except on foot or horseback. In the space of a few short hours the weekend prospector can go farther and cover more ground than what was formerly possible to do in a week by foot or on horseback.

And if you want to look your nicest you may buy complete "prospector" clothing, with the ultimate in styling, from New York department stores—not only for yourself, but for the wife, daughter, son, and diapers for the baby.

No longer do you have to spend hours tramping the hills and valleys; there isn't much you have to carry on your back or by packhorse—no; all you have to do is load it in the "jeep" and take off for the hills.

No one knows the value of this modernized transportation more than this group here today. You use the "jeep" in your everyday chores—from one end of the ranch to the other. And if the "jeep" can't get where you want to go, you load your horse in the trailer and pull it within a few miles of your destination.

For the more advanced and prosperous, even these methods are too slow, and prospectors have taken to the hills in helicopters and by airplane.

This mass movement in the search for uranium and possible wealth has swept across the Nation, and has caught us unprepared, not only in Wyoming, but all over the country. One prospector strikes a valuable deposit—and immediately overnight the entire Nation reads it in the newspapers, listens to the story on the radio, and finds himself on the very spot through the medium of television. We are aroused and imbued with excitement. "By sending \$1; yes, I said just \$1; to station XELO, you may obtain complete and authentic information on how to prospect for uranium. We will send absolutely free with this pamphlet your own, stylized, personal Geiger counter—and for another 50 cents we will write your name in gold. That number again is —."

But the laws have not advanced and developed with the rapidity of this movement. Questions have been advanced for which there seems to be no answer. Both the prospector and the rancher or landowner want to know what their rights are. The law says this for the surface owner, and it says that for the mineral prospector.

First, it says that you are guilty of trespass if you enter unlawfully upon the lands of another without his permission. And on the other hand, it says that one may enter upon the surface for the purpose of prospecting for, mining, and removal of valuable minerals. The surface proprietor says, "You can't come upon my land and prospect without my permission," and the mineral prospector maintains that he has the right to look for minerals.

In addition to that you consult your attorney—but even there you obtain conflicting answers. You will undoubtedly hear divergent and conflicting opinions here today.

Questions have arisen to which not much thought has been given heretofore. Not only are there questions pertaining to the relative rights of the surface owner and the prospector, but questions have been advanced as to the relative rights between the prospectors themselves. What if I own fee land? What if it is Taylor grazing land? Carey Act land? Homestead grazing land? And from the other side come the questions of the prospector. After my claim is located how much of the surface can I use? And to what use may I put the surface? Can I keep hunters and fishermen from crossing my claim? Can I make the landowner keep his cattle away from my mine? What do I have to do to locate and validate a claim? From what point to what point does ingress and egress apply? Can I carry a gun?

The situation has become dangerous, as you all well know.

The rancher and the mineral prospector have had to become legal experts. Perhaps the situation is due to a misunderstanding or conflicting interpretations of the law by both parties. Perhaps both the surface owner and the prospector have even consulted the same attorney and received what appears to be conflicting and directly opposite answers.

I must confess that I am not a mineral legal expert. Since some of these questions have been presented to me I endeavored to find the answers. And some of the answers that I found were conflicting. Some of the answers I have not found yet. One case would say one thing, and another case would say another. The statutory law in some instances does not even touch upon the problem; and in other instances where it does touch upon the problem, it is ambiguous and as yet has received no judicial interpretation in this State nor in other States. Time has not permitted a complete and exhaustive study of each of the questions that have been presented within the past week and a half. I wish that I knew the answers and could say that "this is so" or that "that is so."

The theory of the law has been that there are two separate estates in land:

1. An estate in the surface; and
2. An estate in the minerals.

Herein lies the conflict. How are the two estates to be used and developed in conjunction with each other? There is no doubt that the use of one can destroy the other.

Suddenly every rock has become loaded with wealth. You, the stockgrower, have had the use of the surface for many years; you have placed valuable improvements upon the surface; you have developed wells and reservoirs—and now you are suddenly faced with its destruction. Modern mining methods have evolved from the pick and shovel stage—not much harm could be done with a pick and shovel and before a man did too much damage in his search for mineral wealth he became tired and worn out before he was able to do much damage. But now, within the short space of a day or two, a huge machine is able to completely strip the surface off of that north 40 that you planned to use. But the law says that you are entitled to damages. But it doesn't say how much. You find that that turns out to be an element of proof in a trial at law. You hire an attorney, you are faced with long and expensive litigation, and sometimes the matter of damages does not pay for the time, trouble, and expense involved. And sometimes before you can yell for help the damage has been done and the person responsible for it has disappeared.

You thereupon proceed to surround your pastures with guards to keep off intruders—but over the hill appears a prospector who knows his rights and you are informed that, "by golly, you can't keep me off here and if you do I'll sue." Your attorney isn't present, there is no judge present, there is no jury to decide the matter.

These are some of the problems with which we are faced here today. I, for one, do not profess to be able to give you exact, complete, and accurate answers—but perhaps we may be able to give you some information so that both you and the prospector may have some guiding principles by which you may govern yourselves until an adjustment in the relative rights of stockgrower and prospector can be obtained.

Believe me, your Government officials are working on the matter, with the purpose of obtaining a just and equitable settlement to both the stockgrower and mineral prospector.

The process and evolution of laws takes place after the problem arises—the ideal situation would be that the laws were enacted first to provide for and against any possible or probable problem that might arise.

ADDRESS BY EDWARD WOOLLEY, DIRECTOR,
BUREAU OF LAND MANAGEMENT

We are proud of our soil and moisture conservation accomplishments here in Wyoming. Since this program was transferred to us 15 years ago we have made what I consider to be remarkable progress in spite of certain handicaps and obstacles. As you know, our work is confined to the public lands. It happens that Wyoming is one of the most effective examples we have of the conservation method known as range water spreading. This is the practice of diverting excess runoff from active or eroded gullies to adjoining valley lands. This halts further cutting away of the gullies and conserves needed moisture in the watershed.

It is estimated that we have completed something like 100,000 acres of water-spreading projects in Wyoming, involving the construction of more than 2 million cubic yards of dikes. Tangible results have been achieved already. An encouraging growth of forest plants has resulted which is definitely increasing the grazing capacity of the range

and we are not resting on our oars. Our budget and our planning call for continued water-spreading activities which do not conflict with downstream water uses in Wyoming.

We have been extremely busy with other conservation accomplishments in Wyoming, also. The Bureau of Land Management has built nearly 2,000 small reserves and detention dams which also serve for stock-watering purposes. In connection with stock water, we have also drilled 168 range wells in Wyoming and equipped them with stock tanks.

In addition we have cleared low-value brush from 40,000 acres of Federal range. We estimate that this increases the grazing capacity of the 40,000 acres at least twofold. We have installed contour furrows on 1,000 acres of range to make sure the rainfall goes into the land instead of running off. In this connection, we are now developing an important contour furrowing implement which will greatly speed the application of this simple but very effective conservation measure.

Reseeding has not been neglected in Wyoming either. More than 100,000 acres of depleted rangelands have been reseeded and this program will be continued wherever it is necessary to restore the range to its full productivity.

DAMAGE TO THE RANGE

You are all familiar with the problem of damage to the range from prospecting. We have had it before and it is again before us now, possibly in more acute form as a result of the drive for uranium. Unfortunately, under present laws we have little authority to regulate prospecting methods. Nor do we have recourse to procedures that have been successful in the past.

You may remember when widespread seismographic explorations for gas and oil development a few years back were doing considerable damage to the range surface and nullifying our conservation efforts. In that case, control was achieved through the cooperation and self-policing of the gas and oil industry. There are still some instances of damage to the resources by exploration operations, but in the main that problem was solved.

In the case of uranium prospectors we are dealing with a large number of individuals rather than with a few companies which are sincerely concerned with public relations. It is possible that as the uranium industry becomes stabilized organizations may develop which can police indiscriminate prospecting for uranium just as the corporations did for oil and gas exploration.

In the meantime, we in BLM would not be averse to allowing some monetary consideration from the royalties for mineral leasing to be paid as a compensation to surface owners whose lands have been damaged by prospecting.

Legislation now pending in Congress offers at least a partial solution. In fact S. 1713 would alleviate the situation considerably. It would give Federal agencies control of that part of the surface resources not actually needed by the owners of unpatented mining claims. The United States would have the right to manage and dispose of the vegetative surface resources and to manage the other surface resources. We believe that under such a law backed by all interests concerned, the surface rights on public-domain lands involved could be more fully utilized and managed and still permit miners interested in the same land to determine the extent of subsurface resources in an orderly manner without undue damage to the surface. Also, the Bureau could allow grazing privileges and dispose of timber on unpatented mining claims on public domain lands. Means of access across unpatented claims to Government timber and other resources on public lands would be possible.

It is hoped that these bills, which will alleviate damage to the rangelands and encourage multiple use of the public-domain lands, will soon become law.

SMALL WATERSHED PROGRAM

I would like to mention still another phase of our conservation work that ties in with the small watershed program under jurisdiction of the Department of Agriculture by Public Law 566. This act provides for participation by the Secretary of the Interior. The policy governing this program, as adopted by the Secretary of Agriculture, gives full recognition to public lands and Interior interests in the watershed and invites recommendations by the Secretary of the Interior for the proper treatment of public lands included in the watershed plan. The Secretary of the Interior is authorized to issue regulations which will complement those of the Department of Agriculture governing operation of this program to make certain that the land-management agency concerned will have complete responsibility for the institution of watershed-protection practices on public-domain lands, and for their future management and maintenance, subject, of course, to appropriations. It is our intention to cooperate fully in this program along with the public-land users.

PUMPKIN BUTTES

The situation at Pumpkin Buttes poses a still different kind of multiple-use problem. It is complicated by 4 kinds of ownerships plus reports of uranium possibilities in all 4 types of lands. This situation contributed to indications of possible violence between prospectors, mining locators, and ranchers. This resulted in the Secretary's emergency order of April 27 revoking public-land order 1043 which would have opened 65,343 acres of lands, of which some 7,500 acres are public domain, interspersed with private and State-owned lands, to mineral leasing and mining locations on May 3.

Wyoming has some 40,492 stockraising or enlarged homesteads, involving 18,172,194 acres of land, for which final certificates or patents have been issued. The minerals in some of these lands are reserved to the Federal Government. On the other hand, prior to December 29, 1916, the date of the Stock-Raising Homestead Act, some 21 million acres of Wyoming homesteads and desert-land entries had been patented in which the minerals were not reserved to the Government, but which are owned by the homesteaders. We have considerable of both these types of ownerships in the Pumpkin Buttes area, in addition to and interspersed with only 7,500 acres of public-domain lands, but some 38,000 acres of land on which the minerals have been reserved. Further complicating the picture are some State-owned lands in which the mineral rights are owned by Wyoming and can only be leased from the State.

Under the law, any person qualified to locate any of the minerals has the right at all times—assuming the land is opened, of course—to enter upon the lands for the purpose of prospecting, provided he is not injuring, damaging, or destroying any permanent improvements, and shall be liable for damages to the crops on the land by reason of such prospecting. It would be advisable for prospectors who wish to avoid trouble, even though the law permits them to go on the land without asking permission, to contact the entryman and give him notice of his intention.

If prospectors would observe the common rules of courtesy with respect to going on someone else's land, I believe there could be an orderly opening of the Pumpkin Buttes lands. Anyone encroaching upon privately owned lands should first get the permission of the property owners. Whether they come from Brooklyn or the West, prospectors should know that a fence usually indicates

private property. Where there are no fences—and that is undoubtedly true of many of the privately owned lands involved—there may be valid reason for confusion, but not if ranchers properly post their property. This is strongly urged as a commonsense measure for all concerned in the Pumpkin Buttes area.

In any case it seems to me there would be considerably less chance for trouble if prospectors would go to the owners of fenced or posted property and try to make the arrangements that I mentioned. Even where a rancher does not own the subsurface rights, and therefore cannot legally prohibit prospectors from prospecting or possibly even staking out claims on his property, at least the owner is not so apt to see red if he is first accorded the courtesy of talking things over. All we have to do is place ourselves in the ranch owner's shoes to realize there is nothing quite so provoking as to have someone barge in to stake claims without at least asking permission. This would also be a safeguard against getting on property where the rancher owns the subsurface resources as well as the surface rights. The law does not allow any prospecting without permission on fee simple lands.

If these rules of commonsense and courtesy could be observed, I see no reason why we could not consider the reinstatement of Public Order 1043 so that public interests in these lands could be furthered without undue inconvenience to private property owners. We must not forget that the development of the strategic minerals in these lands is important to the Nation, too.

A CURRENT SURVEY OF WYOMING URANIUM DEVELOPMENTS

(Address by Eugene W. Grutt, Jr., chief, Casper suboffice, Atomic Energy Commission)

INTRODUCTION

Although present uranium activity in Wyoming is related to modern demand for the metal, the first uranium mining in Wyoming dates back to about 1918 when ore was mined from the Silver Cliff mine at Lusk for extraction of radium. Also in 1936, uranium was discovered as the mineral schroekingerite in the Red Desert north of Wamsutter but these deposits have not as yet yielded production.

After World War II the intensive search for uranium began in the United States and for the next few years the search was concentrated primarily in the Colorado Plateau area by the AEC, USGS, and private enterprise with ever increasing success. By 1951, the quest began to lead off the plateau into some of the surrounding areas. The discoveries in Wyoming were a result of this ever widening search. Dr. J. Love of the United States Geological Survey made the first discovery in this cycle when he discovered small pods of carnotite ore in the Pumpkin Buttes section of the Powder River Basin during the autumn of 1951. In the summer of 1952, Homestake Mining Co. made an important discovery, which was the first commercial deposit, in the northern Black Hills near Carlisle, Wyo., by aerial prospecting.

These discoveries were given considerable publicity but the fact that new deposits might lie north of the Colorado Plateau was not taken seriously by more than a handful of companies. Up to the summer of 1953, the firms of Kerr-McGee, Jenkins & Hand, Homestake Mining Co., and American Uranium Co. were the most active pioneers. During this same period the AEC and United States Geological Survey were active in the search. An AEC exploration suboffice was established in Hot Springs, S. Dak., which covered activities in the Wyoming part of the Black Hills, and in April 1953, a Wyoming AEC suboffice of the Denver Exploration Branch was established in Douglas to begin onsite evaluation of the many new

promising areas in all other parts of the State. This office provided almost immediate stimulus to an increasingly inquisitive public and served as an information center and guide to the uranium prospector.

However, it remained for a significant discovery to get the picture. The McNeice discovery of uranium near the Gas Hills in the Wind River Basin during September 1953, which was given nationwide publicity as soon as AEC verification of his find was made, was this discovery. Almost immediately the eyes of many uranium prospectors focused on Wyoming with the result that a wave of prospecting spread to other parts of the State with new discoveries in its wake. The level of present activity is high as is evidenced by the fact that Geiger counters can now be purchased almost anywhere as easily as fishing tackle.

THE AEC PROGRAM

The AEC-exploration program in Wyoming has been, from the beginning, directed toward increasing the uranium potential of the region. The staff has always been small, averaging about 1 geologist for every 8,000 square miles, therefore, it has been necessary to depend, to a very large extent on private prospectors and companies to help cover the State. A great deal of our information has come from the private prospector. Our AEC suboffice, which was moved from Douglas to Casper in January of this year, is delegated reconnaissance and exploration activities of the AEC for most of Wyoming and southeastern Montana. Mining, milling and ore procurement functions are the responsibility of the AEC operations office in Grand Junction, Colo.

Overall operation of the Casper office can be listed as several assignments, some of which are briefly summarized as follows:

1. Reconnaissance, both ground and airborne and as a followup to promising prospector leads. Posting of airborne anomalies for public information.
2. Exploration, such as drilling or geophysical to obtain geologic or other specific information.
3. Evaluation studies, for estimating production potential or for ore reserve compilation.
4. Following of private activity, for appraisal of current developments as they may effect AEC planning or schedules.
5. The gathering of scientific geologic information that may shed light on the problem of origin or aid in establishing criteria useful in finding new ore deposits.
6. Dissemination of information to the public concerning the AEC raw materials program as a service and to assist in matters pertaining to uranium exploration.

In order to efficiently conduct these activities the Wyoming AEC office is located in Casper and district geologists are stationed near the centers of other areas of activity at Riverton and Rawlins, Wyo. The northern Black Hills in Wyoming is administered by a suboffice at Hot Springs, S. Dak.

AEC aerial reconnaissance in Wyoming has been unusually successful due partly to the undulating nature of much terrain in the basins which lends itself well to low-level flying. Prospectors have been directed to new areas of abnormally high radioactivity by public posting of anomalies and known areas have been extended and enlarged. Several hundred airborne anomalies have been recorded up to date and much information concerning areas of abnormal radioactivity has been collected.

Ground reconnaissance is far from complete but it has been widespread. Nearly 1,000 separate field locations have been reported on by AEC geologists. Some of these are original ground investigations based on geologic study but many were made to follow up prospector leads. A review of this work shows that an unusually high percentage of these reports indicate that factors of geologic favorability are present in many

of the localities described especially those in Tertiary formations.

Exploration drilling by the AEC in Wyoming has been on a small scale, but it has been carefully planned. At the present time the Casper office is conducting drilling operations near the Owl Creek Mountains in the Gas Hills area and in the Green Mountains, all of which, is being done to compile geologic information. In the past, AEC drilling has been done in the Wind River Basin, Powder River Basin, Great Divide Basin, Washakie Basin, and the northern Black Hills. This drilling proved timely and we believe it has rapidly advanced the uranium program in Wyoming. For instance, it demonstrated that subsurface deposits of commercial grade existed in the Powder River Basin and it demonstrated that commercial subsurface deposits existed in the Gas Hills area. The Riverton buying station was justified largely on the basis of reserves indicated by AEC drilling during the winter of 1953-1954.

The current level of private activity is high throughout Wyoming and interest is at a peak. Uranium deposits are being mined in a number of areas and exploration by private drilling is on the increase.

I will review briefly the geology of some active uranium districts and attempt to bring you a current report on developments.

POWDER RIVER BASIN

In the Powder River Basin the Wasatch formation of Tertiary age, which occupies central parts of the basin, is the most favorable host. Carnotite-type mineralization, which occurs in coarse-grained, arkosic sandstones is found in a discontinuous belt of occurrences about 70 miles long and in places over 10 miles wide, but the frequency of occurrence is greatest at the extremities of this belt; on the north in the Pumpkin Buttes area, Campbell County and on the south in Converse County. Disseminated type deposits in which the uranium occurs interstitially between sand grains or as grain coatings are the most important. Deposition was favored by zones of above average porosity, by carbonaceous materials and abnormal concentrations of calcareous cement and deposits are often marked by color changes which can be a guide as enrichment is often confined to areas where normally pink sandstones change color to buff or gray. This color phenomenon is probably related to the chemistry of mineral introduction.

The AEC program in this basin has been extensive. Widespread low level aerial surveys have been made to outline the regions of abnormal radioactivity and to localize the most important anomalies. Geologic ground reconnaissance, which has been extensive to appraise known occurrences and furnish recommendations for exploration, has been followed by drilling, both core and noncore, done for geologic information and to determine whether or not commercial deposits existed. These exploration programs covered areas in both Pumpkin Buttes and Converse County and were successful in demonstrating that commercial deposits containing in excess of 10,000 tons of ore were present in Converse County. The United States Geological Survey has on behalf of the Atomic Energy Commission done extensive geologic work in the Pumpkin Buttes area, but to date this area, particularly in the withdrawn portion, has not proven as promising as had been hoped. Final evaluation will be dependent on further exploration by private groups, but as yet no sure ore guides can yet be compiled. The Converse County area appears to be the more promising section for development of new deposits.

Private activity is on the increase and mining has been done in over a dozen localities in the Pumpkin Buttes and Converse County areas from near surface deposits by open-pit methods. The pioneers in this basin were Jenkins and Hand, Kerr-McGee, Hurd & Associates, and American

Uranium Co., now a subsidiary of Loma Uranium Co., but interest is presently being shown by several other capable firms.

NORTHERN BLACK HILLS

In the northern Black Hills the Carlisle deposit owned by Homestake Mining Co. was the first discovered and is the most important. It lies northwest of the Belle Fourche River near the western extremity of the hills. Two of the larger ore bodies of the area are located near the Little Missouri River where favorable beds of the Fall River sandstone (cretaceous) is exposed. Small production has recently come from Barlow Canyon near Devils Tower and numerous areas of radioactivity are known in the vicinity. Three producing deposits and scattered radioactivity are found along the State line east of Aladdin, Wyo.

All of the commercial deposits of the Black Hills are located in the Inyan Kara group of formations which comprise the outer hogback of the domal Black Hills uplift and all are carnotite-type wherein the mineral is disseminated in sandstone rocks, with which is associated considerable carbonaceous material.

The AEC suboffice at Hot Springs, S. Dak., has completed active airborne surveys in this area along with core drilling programs for geologic information and appraisal. The outlook for additional ore deposits appears good, but this can only be determined by additional deep drilling to penetrate unfavorable strata which cover the surface in many places.

GREEN MOUNTAINS

The Crooks Gap section of the Green Mountains in southern Fremont County has been an area of much private activity since uranium was found about 1½ years ago by a prospector hunting jade and by private airplane prospecting. At the north end of the gap, occurrences containing autunite are located along shear zones near a large fault which has thrust pre-Cambrian granite over Cambrian and younger sedimentary rocks. These resemble vein deposits in some respects but the origin of the uranium is unknown.

The more typical deposits, which contain uranophane as the principal uranium mineral, occur to the south of the fault mentioned above. Host rocks are easterly dipping, coarse-grained arkosic sandstones and conglomerates of the Wasatch formation located on the east side of Crooks Gap. Much of the best ore is closely associated with limonite staining and concentrations of carbonaceous material or carbonaceous mudstones.

This section was flown with detection equipment by AEC last summer and several important anomalies containing visible uranium minerals were found and locations published. At present an AEC core-drilling program is in progress to obtain lithologic and stratigraphic information in the Wasatch formation as such information will be an aid in the search for ore when integrated with results of surface geologic mapping and other data. The east side of Crooks Gap shows intermittent anomalous radioactivity for a distance of several miles in a north-south direction, also there are many anomalies lying to the south of the Green Mountains in the North Great Divide Basin. The outlook for the region is considered encouraging.

Commercial ore has been mined from several deposits by open pit methods, the largest of these operations has been the Sno-Ball Mine owned by Coke River Development Co. Among other companies who are active in this area, some of whom are doing exploration and have plans for mining, are Wyoming Uranium Co., Split Rock Mining Co., Lost Creek Uranium Co., San Juan Uranium Co., Mile Hi Minerals, Loma Uranium Co., and Rare Metals Corporation of America.

WASHAKIE BASIN

The most important mineral deposits in the Washakie Basin lie near Baggs, Wyo., in southern Sweetwater County. Similar deposits occur in northern Moffat County, Colo., near Maybell. The initial discovery in this region was made by AEC aerial surveying and USGS ground work 6 miles west of Baggs, in the autumn of 1953. Later discovery near Maybell was the result of aerial prospecting by Arrowhead Uranium Co., now Trace Elements Corp.

Most of the occurrences and anomalies are in the Browns Park formation of Miocene age which covers a large area in both States and which is comprised of medium grained sandstones, shales, claystones, tuffaceous beds and limestones. This formation is horizontal over most of its extent and unconformably overlies most of the older strata.

The deposits near Baggs contain uranium as the minerals meta-autunite, uranophane, and schroekingerite which are disseminated in sandstone strata in irregular deposits following bedding or in fracture zones. More recently uraninite has been identified from subsurface ores which suggests that the other minerals may have been derived from the alteration of this primary mineral.

In the Maybell section somewhat similar deposits occur in the Browns Park formation and the same minerals appear to be present with exception that uraninite has not yet been identified. Faulting and fracturing have been firmly established as important controls of mineralization. AEC has been active in this area conducting widespread aerial surveys, which disclosed over 60 new anomalies in the Browns Park and Wasatch formations during the last field season, along with a drilling program for collection of geologic information which will be of value to the future of the district.

The areas have just begun to be evaluated, but the overall outlook for new discoveries is good as some of the known occurrences are significant.

Private interests have been very active in parts of the basin and the surrounding regions since the original discovery. At present some of the active companies are Trace Elements Corp., Sapphire Petroleum Ltd., Buffalo Head Mining Co., and Sugar Loaf Mining Co. Other firms have also expressed intentions to prospect.

WIND RIVER BASIN

At this time the most important uranium area is the Wind River Basin in Fremont and Natrona Counties, Wyo. The most significant districts are the Gas Hills and Owl Creek Mountains sectors which are along the south-central and north-central margins of the basin respectively. The original discovery, the Lucky Mc claims, was made in September, 1953, by Neil McNeice of Riverton while prospecting with a Geiger counter. News of this discovery created a major uranium rush and presently thousands of claims covering many townships have been located and filed. Kerr-McGee made the first discoveries in the Owl Creek Mountains section by aerial methods, in the wave of prospecting that followed the McNeice strike.

The host rocks containing most occurrences in the Gas Hills lie within Wind River formation (Eocene) which is comprised of coarse-grained arkosic sandstones, carbonaceous mudstones and variegated siltstones and claystones. The mineralogy of the ores is the most striking single feature of these deposits as more minerals have been identified here than in any other part of Wyoming. The secondary minerals such as phosphates, arsenates, carbonates, silicates, and minor vanadates have undoubtedly resulted from the alteration of the primary minerals, uranite, coffinite, and carbonate fluorapatite, which have been identified in the mines. Most of the important deposits of which there are several, are in the form of irregular, undulating blankets in sandstone strata or are roughly lenticular or

ellipsoidal in shape. All of the deposits discovered to date can probably be mined by open-pit methods.

The geology in the Owl Creek Mountain section is markedly different from the Gas Hills. Tuffaceous mudstones, siltstone, and arkosic sandstones and conglomerates of probable Eocene Age were deposited over an ancient erosion surface of pre-Cambrian granite. Deposits occur in two environments, one of which contains meta-autunite and schroëckingerite in these bentonitic mudstones and angular coarse grained arkosic sandstones which overlap the granite, and the other contains uranophane irregularly disseminated in arkosic rubble, composed largely of granite cobbles, and in deeply weathered granite bedrock. Recently the primary mineral, coffinite, has been identified in cuttings from holes drilled in granite.

Since October 1953, the AEC has maintained a field camp in the Gas Hills area and has been doing continuous work. Last year AEC airborne surveys conducted to outline the overall extent of radioactivity in chosen areas, was gratifying in that over 200 anomalies were recorded and the known favorable areas were extended. These anomalies were released to the public. The AEC has completed 2 drilling programs in the Gas Hills, results of which were encouraging as it demonstrated to interested claim holders that deposits, which may approximate 50,000 tons in size, could be expected. Private enterprise has since become more active in exploration drilling. At present, AEC is conducting two drill programs in the basin, one a core program for geologic information in the Gas Hills, and one a non-core program for geologic information in the Owl Creek Mountains and Hilland sections. This drilling is intended to furnish information on lithology and, it is hoped, on stratigraphy, as localization of uranium is dependent to a remarkable degree on these factors.

Right now the activity is at an all-time high in the Gas Hills. Mining operations with production of ore are being carried on by several companies and others have plans for such work in the offing. It would be out of place here to attempt to name all of the companies interested but a few of the operators here are Lucky Mc Uranium Corp., Jenkins and Hand, Savanna Construction Co., Vitro Minerals Co., McAlester Fuels Co., Mount Mesa Uranium Corp., Long Mining Co., Aljob Mining Co., and Noramco Associates. Over 50 separate groups are actively prospecting and doing some exploration in the Gas Hills and surrounding region.

In the Owl Creek Mountain section, Kerr-McGee, Shelley, Little Missouri Mining Co., and Temco Uranium Co., have been active, but other groups also have interests.

During March of this year the Riverton buying station was opened to handle the anticipated production from the Wind River Basin and will undoubtedly be a great incentive for production. The outlook for new discoveries in this basin is very good.

SUMMARY

The discovery of primary ores in Wyoming has been significant and suggests that most of the secondary ores have been derived from alteration of minerals such as uraninite and coffinite. It is becoming evident that structure as well as lithology and stratigraphy plays an important although often obscure role in the localization of many deposits.

Most of the discoveries have resulted from detection of radioactivity so accordingly, most investigations have been at shallow depths. However, there is every indication to believe that deeper deposits showing no surface manifestations exist. Before exploration for such deposits can begin with a degree of success, many problems of a geologic nature must be solved and keen exploration thinking must be developed. In many

areas this will be difficult to accomplish because of the poor exposures in basins, also because internal stratigraphy of many Tertiary formations cannot be successfully correlated, except very locally, due to unpredictable lithologic changes.

Until the problems of origin have been resolved, the best predictions for new deposits will be achieved by application of results gained from studies based on the relationships of known deposits to factors of radioactivity, lithology, stratigraphy, structure, and regional setting. For instance, a pattern of occurrence suggests that areas of favorable rocks near margins of basins are better than average places to prospect. Besides relatively good exposures, these are more likely to be areas of faulting, unconformity between Tertiary and older strata, and areas of recognizable structures.

CONCLUSION

Wyoming represents a promising new uranium province which is largely defined at present by occurrences in Tertiary clastics. Future prospecting may well disclose significant deposits in pre-Tertiary rocks but at present these are important only in the Black Hills.

Much has been accomplished since 1952 in Wyoming uranium, but a great deal of work remains to be done in the critical stages ahead. An accurate appraisal of the Wyoming uranium potential is not possible at this time, however, the future certainly appears encouraging and bright.

URANIUM MINERAL DEPOSITS OF THE PUMPKIN BUTTES AREA, POWDER RIVER BASIN, WYO.

(Address by William N. Sharp, geologist, USGS)

The Powder River Basin is a region of prairie and sculptured terrain that covers about 12,000 square miles in northeastern Wyoming. It is bounded on the east by the Black Hills, on the south by the Laramie Range, and on the west by the Big Horn Mountains. Much of the basin ranges in altitude from 4,000 to 5,000 feet. In the south central part of the basin several prominent buttes, known as Pumpkin Buttes, rise abruptly to an altitude of 6,000 feet.

Deposits of secondary uranium minerals were discovered in the vicinity of Pumpkin Buttes in October 1951 by members of the United States Geological Survey. The following spring a study of the area and the uranium occurrences was begun by the Survey on behalf of the Division of Raw Materials of the United States Atomic Energy Commission, at which time this area of 102 square miles was withdrawn from entry.

During the period from early 1952 through 1954, the area around the Buttes was surveyed by airborne radiometric equipment for detecting and recording surface radioactivity by both the Geological Survey and the Atomic Energy Commission. Places of anomalous radioactivity are spaced over a considerably larger area than was at first anticipated. Actually most of the anomalies are outside the original area set aside. These places were ground-checked and a substantial amount of bulldozing and auger drilling was done at certain occurrences to expose the bedrock and mineralized material. Stratigraphic studies were made throughout this part of the basin, aided by deep diamond-drill holes put in by the Bureau of Mines for the Atomic Energy Commission. A geologic map of 450 square miles of the area, including the withdrawn except for its southwest dogleg extension, was completed along with detailed studies by plane table mapping of some of the principal occurrences and the mined areas which lie north of the Buttes.

I would like to briefly describe some results of this study, some of the features of the uranium deposits and some of the relationships of the deposits to the regional and local geologic features.

GEOLOGY

The Powder River Basin is underlain by sedimentary clastic rocks which are assigned to the Eocene Wasatch formation and were deposited forty to fifty million years ago by streams. Unconformably overlying the Wasatch and capping the Pumpkin Buttes are remnants, less than 100 feet thick, of very coarse-grained siliceous sandstones and conglomerates of the Oligocene White River formation, twenty-eight to forty million years in age. Older rock units that underlie the Wasatch are exposed around the periphery of the basin.

The Wasatch formation, with which we are most concerned, is a rather drab sequence made up predominantly of interbedded siltstones, claystones, carbonaceous shales, and lignite with sandstone lenses dispersed throughout. The orientation of sedimentary structures such as crossbedding, of the long dimensions of sandstone lenses and scour channels in siltstone underlying sandstone lenses and some of the components of the sandstone indicate that the sediments were derived from a source area lying to the southeast. This interpretation is further supported by lateral facies changes in the formation: fine-grained clastics, siltstones and claystones, and lignite predominate in an arcuate belt west, north, and east of the center of the basin, whereas coarser grained rocks are dominant to the south.

The Powder River Basin is asymmetrical in cross-section with its deeper part and greatest thickness of sedimentary rocks close to the Big Horns on the west. The strata on the east side of the basin dip west at low angles, while those near the Big Horns dip relatively steep toward the east. Faulting is prominent at a few places around the rim of the basin; a few small faults with 2 to 10 feet displacement have been observed in the Wasatch formation near the center of the basin. The regional dip of the Wasatch formation east of the axis is only 50 to 100 feet per mile or generally less than 1 degree to the northwest.

Regional mapping indicates that the axis of a broad, low-amplitude anticlinal fold lies just east of the Pumpkin Buttes and plunges to the northwest at a low angle. Dips of this structure generally range from 30 to 100 feet per mile.

In the Pumpkin Buttes area the Wasatch formation is about 1,500 feet thick and about one-third of the formation here is made up of quartz-feldspar sandstone. This occurs in lenses that are from 500 feet to several miles wide, 1 to 8 miles long, and 10 to 100 feet thick. Such lenses are dispersed at random throughout a sequence of drab siltstone, claystone, and carbonaceous beds.

Most of the sandstone lenses in the vicinity of the buttes characteristically are reddish or partly reddish in color, ranging from dark red-brown to pink. These colors contrast sharply with the normal buff or gray color of most of the sandstone in the Wasatch formation in other parts of the Powder River Basin. This red coloring does not occur in the claystones and siltstones surrounding the red sandstone.

The sandstone is generally poorly sorted, friable, and ranges from very fine to coarse grained. Festoon crossbedding is the most conspicuous sedimentary structural feature. At many places, however, the bedding is extremely contorted and debris, such as carbonized wood, clay galls, and leaf impressions, may be abundant. Calcite concretions, so-called cannonballs or pumpkins, from which the area gets its name, are another characteristic feature of sandstone of the Pumpkin Buttes area. The concretions are sand grains cemented with calcite and range in size and shape from that of peas to cannonballs 3 feet across, and cigar-shaped masses 20 or 30 feet long. The smaller concretions are generally round and the larger ones are elongated.

URANIUM MINERAL DEPOSITS

More than 250 uranium occurrences have been examined in the Pumpkin Buttes area. Sixty-six of these are in the withdrawn area. Uranium minerals are visible at most of these places. The rest are not visibly mineralized, but they have anomalous radioactivity. Most of these occurrences are small. They are within an area of approximately 350 square miles with the Pumpkin Buttes near the center. Of notable significance, this area is also the limit of red to partly red color in sandstone lenses. All known occurrences are spatially associated with red color in sandstone. Within this area about 1,000 feet of Wasatch formation is exposed. Sandstone lenses that contain occurrences of uranium are in the lower half of this exposed interval.

The occurrences of uranium may be conveniently classified according to their different habits and mineralogical associations into three main types: (a) disseminated uranium minerals in porous sandstone or concentrated around calcite-enriched sandstone; (b) manganese oxide concretions enclosing or closely associated with oxidized uranium minerals; and (c) uraninite concretions with pyrite.

Recent mining operations which have been principally in the northern part of the red-sandstone zone show that disseminated uranium minerals and uranium minerals in concretionary forms, both uraninite and manganese nodules, occur in the same deposit. In detail, however, manganese nodules are separated spatially from disseminated minerals and uraninite concretions.

In general, disseminated uranium minerals are found almost exclusively at the red to buff color contact in the sandstone lenses. The largest concentrations are found where this color contact is irregular and pseudo-pod-like extensions have formed. Uranium minerals commonly are in the buff sandstone at and near such contacts. Calcite is also concentrated in the buff sandstone near the contact.

Concretionary forms, both those that contain secondary minerals and those that contain uraninite, are found within the red sandstone.

DISSEMINATED HABIT

Uranium minerals disseminated in buff to gray sandstone at the red color contact are yellow to greenish-yellow in color and are principally metatyuyamunite and carnotite. Rarely leibegite and uranophane is found. Irregularities in a generally smooth color contact seem favorable for concentrations of calcite; at places the calcite forms elongate concretionary masses in the buff sandstone. Yellow uranium minerals are localized around such calcite-rich zones and commonly saturate the intervening sandstone between closely spaced concretions. At some places yellow minerals occur in a narrow zone, several inches to several feet wide, conforming to the red-buff contact. At other places yellow minerals are distributed throughout pseudo-pod-like extensions of buff sandstone into red sandstone, forming a minable body. A similar condition exists where the red-color zone meets the underlying claystone at a low angle, leaving a wedge of buff sandstone. Such wedges may contain uranium minerals throughout.

Lignites and carbonaceous shales throughout the area are generally nonradioactive. However, under certain conditions coalified material may contain concentrations of uranium minerals. For example, at one place carbonaceous material with yellow uranium minerals is concentrated at the base of a sandstone in which a color change cuts across from top to bottom. Uranium minerals are disseminated in ferruginous, buff sandstone at this color contact, and are locally concentrated in and around pieces of coaly material. The upper part of the carbonaceous shale

generally contains streaks and zones rich in yellow uranium minerals.

CONCRETIONARY HABIT

Manganese nodules: In most of the uranium occurrences in the Pumpkin Buttes area secondary uranium minerals are associated with manganese oxide nodules. These nodules are essentially irregularly-shaped concretionary masses of black iron-rich manganese oxides (manganite, pyrolusite, and psilomelane) cementing and replacing sandstone. Some nodules are spherical or tubular and have a core of gray sand speckled with manganese oxide and abundant secondary uranium minerals principally uranophane and orange carnotite; other nodules are relatively flat to irregular in shape and uranium minerals are mixed with specks of manganese oxide in zones peripheral to the black mass. The association of secondary uranium minerals with manganese oxides in sandstone has not only been observed in isolated, discrete concretions of manganese oxides enclosing uranium minerals, but as ledges of manganese oxides up to 10 feet across which contain secondary uranium minerals. Manganese nodules are associated with fossil woody material. Many nodules have ferruginous to coaly wood in or around them.

Manganese nodules seem to have no consistent areal or stratigraphic pattern of distribution within individual sandstone lenses.

Uraninite nodules: Uraninite that cements sand in rounded to elongate concretionary nodules has been found at 2 of the mined areas in the northeastern part of the Pumpkin Buttes area at depths of from 20 to 30 feet below the surface. This black material is in the red sandstone near the red color contact and usually associated with pyrite which occurs either as the core of a rounded mass of uraninite or as small blebs of pyrite at the edge of or within the mass of uraninite. Here and there fossil woody material is found in contact with, or nearly surrounded by, uraninite and no pyrite is visible. All uraninite concretions are surrounded by a thick layer of oxidized uranium minerals, carnotite and tyuyamunite. Some of these masses were a foot across.

Paramontrosite, an unoxidized vanadium mineral, occurs much like uraninite and in the vanadium group of minerals is analogous to uraninite. Other vanadium minerals found are hewettite and pascoite.

After these general observations we may summarize and outline the best guides to possible ore grade material. First the uranium occurrences are in sandstone lenses. They are in an area where sandstone lenses are red to partly red in color. They are spatially related to red color in sandstone. One form, disseminated uranium minerals, is spatially related to buff-to-red color contacts. The other forms, uraninite and manganese nodules are in the red sandstone; the manganese nodules are more randomly spaced and the uraninite nodules close to the red contact.

URANIUM DEVELOPMENT FROM A GEOLOGICAL STANDPOINT

(Address by Sheldon P. Wimpfen, Manager AEC Office, Grand Junction, Colo.)

Your courtesy in asking me to be present is most appreciated for several reasons, one of the most important of which, is that, as one whose ultimate objective and interest is to get the maximum amount of uranium produced, I am grateful for the opportunity to meet with others having the same interest.

Free enterprise has accomplished the task under program of incentive assistance and encouragement by AEC. Wherever possible AEC has acted to enable maximum operation by private industry as indicated by our policy of allowing private enterprise to build mills and buying stations. We have withdrawn AEC from participation wherever possible.

Although land withdrawals, with subsequent leasing of ore bodies, was an invaluable part of the program in earlier years, the possibility of further withdrawals is slim. AEC believes that the mining claim system, as opposed to leasing of lands by Government, is the most successful method of obtaining maximum amount of private exploration and production.

The staking of mining claims ran into difficulty because of conflicts on uranium bearing lands which lands were covered by mineral leases. Public Law 585 eliminated this problem with respect to conflict between uranium and oil and gas. But the problem still exists in certain instances such as the case of lands where uranium is known to exist on lands that also contain lignitic material. We are now exploring this situation with the Department of Interior.

Exploration by the AEC today is aimed primarily at the solution of geologic problems. This effort is almost entirely on private lands. Once an indication of the existence of a potential uranium occurrence is found, the development of the area is up to private industry. The AEC effort on private lands is undertaken only after the execution of exploration agreements with the owners. Conflicts of interest do occur and we are constantly seeking ways and means of resolving them.

As the administration of public lands is primarily under the Department of the Interior, we must and do look to and work with the Interior to find ways and means of achieving the maximum amount of production with a minimum of conflict over lands. It is unlikely that we shall ever achieve a period completely free from conflicts, but we must strive toward this goal.

AEC has requested restoration of Pumpkin Buttes Withdrawal to the public domain as our efforts in exploration of this area have been concluded, largely with somewhat negative results. We are interested in seeing the orderly return of this area to the hands of private prospecting.

When a uranium deposit is found—

First. The material is not ore unless it can be mined, delivered to market, and processed for recovery of its metal content at a profit. If it cannot be mined with a margin of satisfactory earning, it is not ore. If it cannot be efficiently processed, it is not ore.

Second. When enough metallurgically acceptable ore is found, a market is required. If the deposit is far from established markets, a new market may be developed. The means of accomplishing this may be through the purchase of the ore under a fringe contract to encourage further development in a given area, or, if sufficient reserves have been established and adequate mining rates indicated, through establishment of a buying station.

Third. Reserves must be further developed along with actual mining rates to justify a mill.

Fourth. Metallurgical questions must be answered through bench and pilot plant testing to set up the chemistry, flowsheet, and capital and operating costs of concentrate production.

Fifth. The forthcoming price for the product must be acceptable to the AEC and substantial evidence must exist as to the financial competence of the group proposing to build a mill that they are able to fulfill their obligation to construct and operate the mill.

These steps may require considerable time. Each instance may be different. The AEC encourages all who are capable to participate in this important program. Special interest, such as geologic training and experience, mining know-how, and raw-material processing are particularly useful. The outlook for the future of the industry is bright with exceptional promise. The indications are that the peacetime applications of atomic

energy will be of such scope as to make the uranium production industry a thriving one for many years to come.

ADDRESS BY GOV. MILWARD L. SIMPSON, NATURAL RESOURCES BOARD, JUNE 9, 1955, CASPER, WYO.

Mr. Chairman, members of our Wyoming congressional delegation, members of the United States departments here present, friends, this has been a most significant few days for Wyoming. The Wyoming Livestock Growers Association, its president, Cliff Hansen, and its members are to be commended for the interesting meeting yesterday on the mining problem, which was presided over by our senior Senator, FRANK A. BARRETT. I was particularly interested in the resolutions adopted by the convention. Much good will come to us from this important session.

I want to pay my respects to Byron Wilson and the distinguished members of the Wyoming Natural Resources Board for sponsoring this important meeting, which means so much to the Nation and to the mining States.

The subcommittee of the United States Senate Interior Committee, under the chairmanship of Senator JOSEPH C. O'MAHONEY, will undoubtedly find great help from the two meetings which precede the subcommittee hearing which is to begin this afternoon.

It is a very interesting observation to note that here in Casper to attend these meetings and to cooperate with us in seeking and finding a solution are some of the best brains from the Department in Washington. I want to pay particular tribute to these splendid gentlemen who have added and will add much to our deliberations here—our own Reuel Armstrong, Solicitor of the Interior Department; Edward Woosley, Director of the Bureau of Land Management; Lewis E. Hoffman, minerals staff officer; James D. Parriott, Associate Solicitor, Public Lands and Mineral Resources Division; Edward P. Cliff, Assistant Chief Forester, and others of his department; Mr. French, chief counsel of the Senate Interior and Insular Affairs Committee; Messrs. Moffett, Dworshak, and Arent of the American Mining Congress; Messrs. Johnson, Ninger, Tully, et al., of the AEC and USGS; Mr. Grutt, of the AEC Casper office; Wes Wallace and Ray Best from the regional office in Denver and the Cheyenne office, respectively, of the Bureau of Land Management.

This is one of the best indications of Federal-State-local cooperation that will augur well for the development of our natural resources in the West. As Governor of Wyoming, I wish to pay respect to all these individuals, the departments they represent, and the citizens from within and without Wyoming who are here to resolve the vexatious problems confronting us.

First of all, let me say that this is a two-way street. This apparent controversy is between surface owners of the Federal lands and prospectors for mineral rights on that land. Surface rights from the standpoint of the stockman is of great importance. Similarly, the importance of mining development to the State is also of great importance. This hearing stems from the controversy revolving around the Bureau's decision to open the Pumpkin Buttes area in northeastern Wyoming.

It is already apparent, from the evidence before us, that our Federal and State mining laws are somewhat inadequate and in many instances, outmoded. We can't operate on the streamline necessity of 1955 with the outmoded and inadequate laws of 1916 and others. These hearings to date point up the necessity for a complete overhaul in many of the laws, in order to clarify them.

It took Federal-State cooperation to rescind the order with respect to the Pumpkin Buttes area. Under the conditions there was no other alternative. As Governor, I did promise the Bureau of Land Manage-

ment and other interested departments in Washington that the State would cooperate with the departments in bringing about a solution and of restoring the Pumpkin Buttes area for mining location and development. I made this promise; it was concurred in by both ranchers and prospectors alike who attended the meeting in April. We must keep that promise. No mess is so hopeless but what a solution can be had. It should be made that much easier with the cooperation of the best brains in Washington and with a spirit of tolerance evidenced between divergent interests.

Even though there have been some harsh words and severe criticism voiced between some of those with divergent views, I do not subscribe to statements loosely made that there's no solution to this problem and that there's bad blood between ranchers and stockmen on one side and the prospectors on the other. By and large, the majority of these men are responsible men. Already many of them have cooperated in helping solve this problem. Greater cooperation is needed and called for.

I do not expect to testify; I am here with my Natural Resource Board, all the members of which are present, with the knowledge that solution can and will be had. I do want to say that it is crystal clear to me, in the light of what has already transpired, that if these hearings do nothing else, they certainly point up the necessity of passing the bills now in the United States Congress to restore the minerals to the State of Wyoming where they belong. That in itself would obviate the necessity of revamping two sets of laws. It would throw us back on our Wyoming law, with which we can readily and quickly handle the problems that confront us. Here in Wyoming we pray for that eventuality. It is fair, it is necessary, it must soon be done.

In passing, I might point out that perhaps royalty payment to surface owners might eliminate a share of the feeling, and pay them for surface damage. In my message to the legislature I pointed out that if the legislature continued to memorialize Congress for such royalty payment to surface owners, the State should be fair enough to grant royalty payments on all State lands as well. I grant this is a controversial question, but it may hold some degree of good sense for a partial solution.

May I urge upon everyone present, tolerance, understanding, and good temper. We are adults, dedicated to the solution of problems which have been left too long unsolved. In my book, a solution is mandatory. Already our attorney General's office, as evidenced by the appearance of our Deputy Attorney General, Bob McPhillamey, who so capably portrayed the Wyoming law to you, is working on this important matter and will continue to work on it. Moreover, the Interim Committee, under the leadership of Senator Barlow and newly elected President of the Wyoming Stock Growers Association, has assured me that his committee will give it careful scrutiny and study. Correlated with it will be the Wyoming Oil and Gas Conservation Commission, working on related subjects.

I am confident that with intelligence and understanding, we are on the eve of great development in Wyoming. Let us dedicate ourselves to that end.

Mr. BARRETT. Mr. President, I ask unanimous consent that the resolutions adopted at the convention of the Wyoming Livestock Growers Association be inserted in the RECORD at this point.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTION No. 10

Whereas Governor Simpson and the members of our congressional delegation and

officials in the Bureau of Land Management have recently taken prompt and effective action to postpone the opening of the Pumpkin Buttes area to mineral prospecting until such time as equitable regulations therefore can be devised; and

Whereas this postponement has averted violence, bloodshed, and civil strife: Therefore be it

Resolved, That we express our appreciation to those of our officials who have for the time being averted serious trouble and destruction; be it further

Resolved, That we commend our State officials for giving careful consideration to the matter of establishing justice between landowners and prospectors, and that it is our belief both can live and prosper side by side under proper regulations.

RESOLUTION No. 11

Whereas in process of mineral prospecting, certain practices now followed give rise to unnecessary confusion and results in considerable loss and inconvenience to established agricultural enterprise and constitute a hazard to the life and safety of the general public; and

Whereas our State has authority to stipulate conditions whereunder prospecting and development of mineral resources may be carried on: Therefore be it

Resolved, That in an effort to promote equity and harmony between landowners and individuals interested in mineral development, the following rules be promulgated and enforced:

1. The prospector shall provide himself with a license or permit to be issued by an appropriate agency of the State upon posting of a bond the purpose of which shall be:

A. To guarantee that pits, holes, or excavations shall be properly fenced for the protecting of livestock.

B. That upon abandonment, these shall be backfilled and restored to original condition.

C. That land titles be kept clear and abstracts up to date by prospector.

2. Failure to produce minerals or carry on certain minimum efforts toward production for a certain maximum time determined reasonable by aforesaid State agency shall constitute abandonment of mineral claims whereupon abstracts of land titles affected by mineral filings shall be continued up to date, the expense thereof to be borne by the prospector according to his responsibility therefor.

Mr. BARRETT. Mr. President, a panel discussion on the relative rights of landowners and mining prospectors was conducted at the final session of the Wyoming Stock Growers Association on Thursday, June 9, presided over by Clifford Hansen, president of that association. On the following day the Wyoming Natural Resource Board conducted another panel discussion on the more technical part of uranium mining with Byron Wilson, president of that board, presiding. The following members of the Natural Resource Board also attended the sessions: Monte Robertson, vice chairman, E. B. Hitchcock, Sam Hyatt, Manville Kendrick, Glenn Sorensen, L. F. Thornton, George Gibson, and C. E. Astler.

Mr. President, a splendid aggregation of Government officials from the field offices as well as from the departments in Washington were on hand for all three sessions in order to help as best they could to provide as much information as possible on both of the panel discussions and at the committee session presided over by my colleague, Mr.

O'MAHONEY, on Friday afternoon and evening.

Mr. President, Gov. Milward L. Simpson, together with my colleague the junior Senator from Wyoming [Mr. O'MAHONEY], Representative KERR THOMPSON, and I took part in all the panel discussions and supplied some of the answers. In addition, the following officials made splendid contributions by participating in the discussions and answering the questions assigned to them: J. Reuel Armstrong, Solicitor of the Department of the Interior; Edward Woolley, Director of the Bureau of Land Management, Department of the Interior; Lewis E. Hoffman, Minerals Staff Officer, Technical Program Division, Bureau of Land Management, Department of the Interior; James E. Parriott, Associate Solicitor, Public Lands and Mineral Resources Division, Department of Interior; Edward P. Cliff, Assistant Chief Forester, United States Forest Service; Edward C. Crafts, Assistant Chief Forester, United States Forest Service; Reynold G. Florence, Associate General Counsel, Department of Agriculture, Forestry and Lands Division; Robert D. Nininger, Deputy Assistant Director for Exploration Division, Atomic Energy Commission; Charles W. Tully, Assistant Director, Division of Raw Materials, Atomic Energy Commission, Sheldon P. Wimpfen, Manager, AEC Operations Office, Grand Junction, Colo.; E. W. Grutt, Jr., Chief, AEC explorations suboffice, Casper, Wyo.; and William Sharp, in charge of uranium explorations, United States Geological Survey, Denver, Colo.

When I arranged for these gentlemen to come to our State in order to participate in the panel discussions I told them that no doubt a good many questions would be submitted in writing. I received a large number of questions, but only a short time before the meetings. Consequently, there was very little time to spend preparing answers. I want to make it clear, Mr. President, that the answers supplied are wholly unofficial and represent only their best effort to impart the information desired on an individual basis. Furthermore, many of the questions do not concern Federal laws or regulations and should be answered by legal authorities of the State. It may well be, Mr. President, that in the final analysis some of the questions will be answered by the courts. In my judgment, Mr. President, no other group was better qualified to answer the questions in this particular field than the gentlemen on the panel.

In addition, the following officials were on hand, and although they did not sit on the panel, they made a great contribution to the program: Harry Moffett, Henry Dworshak, and Jack Arent, all of the American Mining Congress; Westal B. Wallace, Area Administrator of the Bureau of Land Management, Denver, Colo.; Raymond R. Best, State Supervisor, Bureau of Land Management, Cheyenne, Wyo.; Donald E. Clark, Regional Forester, Rocky Mountain National Forest region, Denver, Colo.; Fred H. Kennedy, Assistant Regional Forester, Rocky Mountain National Forest region, Division of Wildlife and Range Management; Philip L. Heaton, Forest Supervi-

sor, Big Horn National Forest; and E. J. Fortenberry, Forest Supervisor, Medicine Bow National Forest.

For convenience I have combined the questions and the answers at both the Stock Growers Convention and the Wyoming Natural Resource Board.

I ask unanimous consent that the questions and answers developed during the panel discussions be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

1. Question. Please define the kinds of land ownership now existing in Wyoming.

Answer. Wyoming does not differ greatly from the other Western States in types of land ownership. The percentages, however, do vary. Wyoming has two types of land ownership—public and private.

The Federal Government has lands in Wyoming under several tenure arrangements, namely, (1) national parks and monuments; (2) national forests, (3) Indian reservations. These all are permanent reservations. (4) the bulk of the remainder of the Federal lands are in public domain status. The public domain may be in a vacant and unappropriated status or it may be withdrawn from all use for reclamation development, wildlife preserves, and other uses. The public domain status is not static. It changes daily like a bank account. Lands are withdrawn, restored, sold, homesteaded, selected by the State, and exchanged.

The Federal land title may consist of the whole estate, the surface estate only, or the mineral estate only. This is the result of acts of Congress under the various public land laws.

The State of Wyoming owns lands obtained in various ways, such as purchases from its citizens, grants from the public domain for public schools and State institutions, and in other ways, such as Carey Act grants and acquisitions through foreclosure of State loans.

Counties and municipalities own land obtained by purchase, tax delinquency, and donation.

Individuals, companies, and corporations own lands obtained in many ways. These lands may be in individual small tracts, large blocks of holdings, and in checkerboard patterns, such as the railroad grants.

In general, the better lands, particularly for agriculture, are private holdings. These lands were selected, granted, or homesteaded out of the public domain. The greater percentage of private land ownership is in the east half of the State. In the western half of the State the private holdings are mainly tied to water and the valleys with the exception of the railroad grants.

While there is some degree of uniformity in land patterns on our ranches, there are many different kinds of land ownership in Wyoming. Most of our old-time ranches were established in the early days by filing 160-acre homestead entries along the creeks and small streams. The patent issued under these entries conveyed unrestricted fee simple title to the lands. Although the total acreage on ranches in those days was not large, the ownership of the water hole served also to control large bodies of adjoining uplands. Most ranchers in those days also took advantage of the Desert Land Act and thereby took up an additional 160 acres of nonmineral lands and obtained a full, unrestricted fee simple title when a patent was issued. Under the additional Homestead Act of 1909 a person was entitled to an additional 160 acres, making a total of 320 acres, and under the law the homesteader was again entitled to an unrestricted patent.

Of course, all of these homesteads were limited to nonmineral lands, and consequently, since coal was quite common

throughout our State, many homestead patents reserved the coal deposits to the United States.

In 1916 the Congress enacted the Stock-raising Homestead Act which permitted an entry of 640 acres of unappropriated public domain lands but the patents issued under this act reserved all of the minerals under these entries to the United States. A large proportion of the ranch lands in Wyoming were patented under this act.

At the turn of the century large bodies of our timbered lands were withdrawn from entry as national parks and monuments and forest reserves. A good many of our ranchers have allotments permitting them to run a certain number of stock on these forests during the summer months, varied according to the size of their home ranch.

When the Taylor Act was passed in 1934 practically all homesteading by settlement was suspended and thereafter all public domain lands were administered under the Department of the Interior. Nearly every ranch in our State has some of these Taylor lands. In some parts of the State these tracts are small and isolated, and in other places they are in rather large bodies.

When Wyoming was admitted to the Union, sections 16 and 36 and other lands were set over in our State. These lands are leased by the State and a good many ranches have leases on these lands. A good many years ago the State set up a State loan department to make farm loans and as a result obtained title to some of these lands under foreclosure. Some of the lands patented to the State and nearly all of the lands acquired under foreclosure proceedings were sold with a reservation of the minerals to the State and, as a consequence, many ranchers own the surface only of these lands with the State owning the minerals.

It has been a custom in recent years for the seller to reserve all or part of the minerals when selling his land holdings and, as a consequence, in some cases a rancher may own the surface and other citizens own the minerals under these same lands.

In a good many sections of the State, lands are held under the mining laws. Considerable land is held under Bentonite Placer Mining Claims as well as Oil Placer Mining Claims. Some of these claims have been patented but in any event, if the Government owns both the minerals and the surface of these claims, then the mining claimant is entitled to the surface when a patent is issued. If the surface has been patented with a reservation of the minerals to the United States, then the mining claimant gets the minerals only with a right to use the surface only for the purpose of removing the minerals. And so it is quite evident that our basic land system is extremely complex.

2. Question. Is it necessary for a mining prospector to post a bond before locating a mining claim?

Answer. Not on public domain where both the surface and subsurface is owned by the United States. In other cases, except for stockraising homestead entries, where the minerals alone are reserved to the United States, there is no specific provision for a bond to carry on mining operations. However, damage done through negligence of a prospector, mining locator, or mining operator would be subject to the same liability to the surface owner or lawfully authorized user as is allowed by local laws in favor of privately owned property.

In connection with stockraising homestead entries, section 9 of the act of December 29, 1916 (39 Stat. 364; 43 U. S. C. 299), provides for a reservation of all minerals to the United States and that any person who has acquired from the United States the coal or other mineral deposits in any such lands, or the right to mine and remove the same, may reenter and occupy so much of the surface thereof as

may be required for all purposes reasonably incident to the mining for removal of the mineral deposits, (1) upon securing the written consent or waiver of the homestead entryman or patentee; (2) or upon payment of the damages to crops, tangible improvements to the owner thereof under agreement; (3) or upon the execution of a good and sufficient bond to the United States for the use and benefit of the entryman or owner of the land; (4) section 2 of the act of June 17, 1949 (63 Stat. 200, 201), and section 5 of the act of June 21, 1949 (63 Stat. 214, 215), provide for additional damages to the surface of the land by reasons of strip mining operations.

3. Question. Can a mining prospector locate a lode or placer mining claim on lands patented under the stockraising homestead law under the following conditions:

(a) A home or other buildings are located on the proposed claim?

(b) A water well is located on proposed claim and in such case does the locator have the right to use the water?

(c) Where a small stock reservoir is located on the proposed claim?

Answer. (a) A mining prospector may locate a lode or placer mining claim on lands patented under the stockraising homestead law where there is a home or other buildings located on the proposed claim, but if he does damage thereto he must make just compensation therefor.

(b) The same applies where there is a water well with the same rule as to damage. Rights as to the use and appropriation of water are governed by State laws and when in controversy between private parties must be settled in the local courts.

The act of July 26, 1866 (14 Stat. 253; 30 U. S. C. A., sec. 51), states under the heading of "Vested rights to use of water for mining, etc.; right-of-way for canals," as follows:

"Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes have vested and accrued and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right-of-way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but, whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable for such injury or damage" (R. S., sec. 2339).

Ricketts-American Mining Law states in section 30:

"Next to the right to mine on the public domain, the Federal mining law grants to miners the most valuable incident thereto, the right to use the public waters in mining, which is the very essence of the mining laws, without which mining could not be made profitable. Previous to the enactment of that law, the possessory rights to water and its conduits rested solely upon the local customs, laws, and decisions.

"The doctrine of appropriation under this law applies only to public lands and waters of the United States. At the present time the various States, by statute, which vary in effect and detail, prescribe the use of water therein" (Ricketts, sec. 81).

"The Federal law protects priority of possession in rights to the use of water for mining purposes where such rights have been vested and are recognized and acknowledged by the local customs, laws, and decisions" (Ricketts, sec. 84).

"Even if priority of possession is shown, it still is necessary to prove that the right to the use of the water is recognized and acknowledged by the local customs, laws, and decisions of the courts; all of which are questions of State law" (Ricketts, sec. 86).

(c) Locations may also be made on privately owned stock reservoir or other improvements subject to payment of damages.

4. Question. (a) Explain the nature of a discovery sufficient to justify a valid mining location.

(b) What proof must a miner make in order to obtain a patent for a mining claim, especially as to the discovery of the mineral and what Government agency will ascertain if the miner has complied with the law in that regard?

(c) What arrangements will be made for damages to crops and permanent improvements and to the title of these lands?

(d) If a mining claim is validated and patent is issued thereon, will the miner be required to pay taxes in the event the claim is on stockraising lands that have already gone to patent?

Answer. (a) To meet the test of discovery under the mining laws, there must have been a discovery within the limits of the claim of valuable mineral deposits and that discovery must be such as would justify a person of ordinary prudence in the further expenditure of his time and means in an effort to develop a paying mine. This is the test applied by the Department of the Interior and approved by the United States Supreme Court. *Cameron v. United States* (252 U. S. 450, 459); *Christman v. Miller* (197 U. S. 313, 322).

(b) The procedure for obtaining a patent to a mining claim is set forth in title 30, United States Code, 1952 edition, section 29. Among other things, an applicant for a patent must show that he has made a valid discovery (see (a)); that \$500 has been expended on the claim in labor and that improvements have been made upon the claim by himself or his grantors; he must submit a plat and field notes of the claim; he must show that no adverse claim to the land exists; he must also pay for the land at the rate of \$5 per acre. Whether the applicant has complied with the requirements of the mining laws (30 U. S. C., 1952 edition, sec. 22 et seq.) and is thus entitled to a patent will be determined by the Department of the Interior.

(c) It is assumed that this question relates to damages to crops and permanent improvements of those holding the surface of the lands under patents from the United States containing mineral reservations to the United States or to situations where mining claims are located on lands held under grazing leases or permits issued pursuant to the Taylor Grazing Act (43 U. S. C., 1952 ed., sec. 315). With respect to the first situation, for example, the Stockraising Homestead Act (43 U. S. C., 1952 ed., sec. 291 et seq.) permits mining locations, as distinguished from leases under the Mineral Leasing Act, to be made on lands embraced in entries made or patents issued under that act. The act reserves to the United States the minerals in the lands so entered and patented together with the right to prospect for, mine and remove the same. The act provides (43 U. S. C., 1952 ed., sec. 299):

"Any person qualified to locate and enter the coal or other mineral deposits, or having the right to mine and remove the same under the laws of the United States, shall have the right at all times to enter upon the lands entered or patented * * * for the purpose of prospecting for coal or other mineral therein, provided he shall not injure, damage, or destroy the permanent improvements of the entryman or patentee, and shall be liable to and shall compensate the entryman or patentee for all damages to the crops on such lands by reason of such prospecting. Any person who has acquired from the United States the coal or other mineral deposits in any such land or the right to mine and remove the same may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident

to the mining or removal of the coal or other minerals, (1) upon securing the written consent or waiver of the homestead entryman or patentee; (2) upon payment of the damages to crops or other tangible improvements to the owner thereof; or (3) in lieu of either of the foregoing provisions, upon the execution of a good and sufficient bond or undertaking to the United States for the use and benefit of the entryman or owner of the land, to secure the payment of such damages to the crops or tangible improvements of the entryman or owner, as may be determined and fixed in an action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties thereon, such bond or undertaking to be in form and in accordance with rules and regulations prescribed by the Secretary of the Interior and to be filed with and approved by the register of the local land office of the district wherein the land is situate, subject to appeal to the Secretary of the Interior or such officer as he may designate."

Section 6 of the Taylor Grazing Act (43 U. S. C., 1952 ed., sec. 315e) provides that nothing therein shall restrict prospecting, locating, developing, mining, entering, leasing or patenting the mineral resources of grazing districts under law applicable thereto.

Section 7 (43 U. S. C., 1952 ed., sec. 315f) provides that locations and entries under the mining laws may be made upon lands covered by the act. It would appear that one having a valid mining location on lands covered by a grazing lease or permit under the Taylor Grazing Act would have the right to use so much of the surface of the land as is reasonably necessary to conduct his mining operations but that he would be liable for any unnecessary damage. The question of damages is one, primarily, to be settled between the parties and in accordance with the provisions of State law.

(d) The answer to this question depends upon State law. Apparently under the Wyoming law, the products of mines are taxable. See article 15, sec. 3, of the State constitution and Wyoming Compiled Statutes, 1945, sec. 32-1001.

5. Question. What is the proper procedure for the landowner, whose title is based on a stockraising patent, to take in order that he may be assured of collecting proper damages to his permanent improvements, crops or other property on his land by a mining prospector seeking to locate, discover, or do assessment work on a mining claim?

Answer. Under section 9 of the Stockraising Homestead Act a qualified person is allowed to enter upon the patented lands for the purpose of prospecting for minerals thereon provided he does not injure or destroy the permanent improvements of the patentee and subject to liability for damages to crops on the land by reason of such prospecting. Such damages would be collectible by an action in the courts.

If the person entering upon the patented land has already located a mining claim thereon, he is allowed to reenter the lands for the purpose of removing the minerals provided that he (1) receives the written consent or waiver of the surface owner; or (2) pays for damages to crops or other tangible improvements; or (3) executes a bond to secure payment of such damages. Damages owed to the surface owner by the mining locator would be collectible in the local courts in an action either against the locator, if no bond were filed, or in an action against the principal and sureties on the bond if one has been filed.

6. Question. If a miner files on United States minerals on lands already patented under the stockraising act and gets a patent: (a) Just what will be the nature of the mining patent; (b) who will pay taxes on the lands included in the two patents?

Answer. (a) A patent to minerals underlying a Stockraising Homestead Patent (43

U. S. C., sec. 299) conveys only the minerals with the right to use the surface for mining purposes since it is made expressly subject to rights granted the surface owner under the act.

(b) Taxes are paid in accordance with State law. In general, it may be said that both patentees have property interests which may be subjected to taxation.

7. Question. How could one borrow money on stockraising homestead patented land where a miner holds another patent on the same land?

Answer. The title of the patentees to the surface and minerals respectively are separate property interests and not as a matter of law clouded by the other's interest. If the property right is valuable, it should be possible to borrow on the property interest involved.

8. Question. How could a landowner sell his land and give a clear title where a miner has a patent to minerals?

Answer. There is no legal impediment to the transfer of clear title to surface rights.

9. Question. Can a mining prospector enter on land with bulldozers to build roads in a careless manner that will cause permanent injury to the vegetation?

(a) Upon lands patented under the stock-raising law?

(b) Upon Taylor leased lands?

Answer. (a) The prospector "shall have the right at all times to enter upon the lands entered or patented, as provided by this Act, for the purpose of prospecting for coal or other minerals therein, provided he shall not injure, damage, or destroy the permanent improvements of the entryman or patentee, and shall be liable to and shall compensate the entryman or patentee for all damages to the crops on such lands by reason of such prospecting." Section 9, Stock-raising Homestead Act of December 29, 1916 (39 Stat. 862; 43 U. S. C., sec. 299). Whether a prospector would be liable beyond the terms of the statute for willful acts unnecessary to prospecting or for carelessness would be for a local court to determine. The law does not require a prospector to give bond.

(b) It is possible that a prospector would be liable in damages to the United States for willful destruction of vegetation or land surfaces but so far as known the question has never been at issue.

10. Question. Does a prospector have a legal right to cross lands patented under the Stockraising Homestead Act to reach Government (Taylor land) without permission from the landowner?

Answer. Such rights, if any, as a prospector would have, would flow from State laws. The jurisdiction of the Federal Government or one holding under it in such case is limited to its ownership of the minerals in the land and the right to the use of sufficient surface to remove them. It does not include right of access to other lands. In the absence of some State law granting a right-of-way no such right would exist.

11. Question. Can the prospector cross over lands upon which the landowner owns the surface without his permission, if the lands are posted, to get upon the lands of a neighboring landowner?

Answer. The prospector may not cross lands the surface of which is owned by another in order to reach other adjoining lands unless he has the permission of the surface owner. The surface owner has the same protection against trespass in such cases as an owner in fee simple. It is possible, of course, that the prospector may be granted some special right of entry under State law.

12. Question. (a) May a prospector enter upon stockraising homestead lands without the knowledge or consent of the surface owner from a public road passing through or along these lands, if the lands have been posted against trespass?

(b) Over a private road?

(c) Across fee lands of the landowner contiguous to these lands?

(d) Through the fence along the right-of-way maintained by the landowner?

Answer. Under section 9 of the Stock-raising Homestead Act the prospector has the right to enter upon the patented lands for the purpose of prospecting thereon. Therefore, the prospector would have a right of entry upon the lands for prospecting purposes whether or not the lands are posted and whether from a public or private road. However, the prospector could not lawfully enter upon or cross lands owned in fee without the owner's consent, nor could he use a privately owned right-of-way without such consent, unless such a right were granted to him under State law.

13. Question. The landowner owns the surface under a stockraising homestead, and the minerals are reserved to the Government.

(a) Is the prospector liable for damages caused by driving jeeps, autos, trucks, etc., across

(1) Grass?

(2) Growing crops of the surface owner?

(b) If the prospector can come on these lands without the knowledge or consent of the landowner and is not detected while on or crossing such lands, how is the landowner to collect damages?

(c) If there are several prospectors on these lands of the surface owner at the same time and one of them damages the property of the surface owner, how does the surface owner collect damages?

Answer. (a) Under section 9 of the Stock-raising Homestead Act, the prospector would be liable for damages to the crops on the lands of the surface owner. This liability would extend to damages to grass if the grass were found to come within the term "crops on the land."

(b) It would be necessary for the landowner to identify the prospector causing the damage in order to enforce any liability for damage under the Stockraising Homestead Act.

(c) The surface owner would be able to enforce his right to damages only against the prospector who has in fact caused the damage.

14. Question. Is the prospector liable, in the absence of any agreement with the surface owner, for damage to:

(a) Growing crops on stockgrazing homesteads?

(b) Grass on stockgrazing homesteads?

(c) Livestock?

(d) Improvements?

Answer. (a) The prospector is liable for damages to growing crops under section 9 of the Stockraising Homestead Act.

(b) The liability would extend to grass only if the grass could be classified as a "crop."

(c) Damage to livestock is not covered by the indemnity provisions of the Stockraising Homestead Act, though it is possible that such liability might be established in a regular tort action for damages to personal property.

(d) The Stockraising Homestead Act provides for liability for damages to tangible improvements on the lands of the surface owner.

Section 2 of the act of June 17, 1949 (63 Stat. 200, 201) provides:

"Any person who hereafter prospects for, mines, or removes, by strip or open pit mining methods, any minerals from any land included in a stockraising or other homestead entry or patent, and who had been liable under such an existing act only for damages caused thereby to the crops or improvements of the entryman or patentee, shall also be liable for any damage that may be caused to the value of the land for grazing by such prospecting for, mining, or removal of minerals."

A similar provision is embodied in section 5 of the act of June 21, 1949 (63 Stat. 214, 215).

15. Question. The landowner owns the surface under a Stockraising Homestead or school lands, the minerals being reserved to the Federal Government or by the State: Can the prospector cross lands of the surface owner in order to get on lands of a neighbor without a right-of-way or agreement, especially if the lands have been posted against trespass?

Answer. The owner of the surface of lands on which the minerals have been reserved enjoys the same protection against unlawful trespass as other landowners. Any right of entry for the purpose of crossing the land which a prospector might have in such circumstances could only arise under State law. A prospector can, of course, enter the land for the purpose of prospecting on that land itself.

16. Question. From what point to what point does ingress and egress apply?

Answer. Assuming that a prospector has obtained a right of ingress and egress by agreement with a landowner, his right extends only to such point or points of ingress and egress specified by the landowner in the agreement. If no such points of ingress and egress have been specified in the agreement, the prospector would have the right to use whatever reasonable points of ingress and egress as are available.

17. Question. When a claim has been filed upon stockraising homestead land, can another prospector or other prospectors continue to prospect and run over the same piece of land embraced in that claim?

Answer. Once a valid mining claim has been made upon stockraising homestead lands, such lands are no longer open to further prospecting by others as long as the original locator maintains his right by compliance with the mining laws. An exception to this rule is found in those cases where a lode claimant enters upon a placer claim for prospecting purposes. In such a case the lode claimant has the right of entry for prospecting purposes if the consent of the placer claimant is obtained. *Clipper Company v. Eli Company* (194 U. S. 228, affirming 68 Pac. 289).

18. Question. (a) Where the landowner owns the surface and the Government has withdrawn the minerals from acquisition, is any prospecting on such land permitted until such withdrawal has been lifted?

(b) What action has the Government taken to police these lands?

Answer. (a) Minerals reserved to the Government which have been withdrawn from location, entry, and patent under the mining laws are not open to mineral prospecting until the minerals have been appropriately restored.

(b) While the Government is unable to actively police all withdrawn lands or minerals, action in trespass is taken against unlawful removal of minerals from withdrawn lands when such trespass is brought to the Government's attention in one way or another.

19. Question. In cases where the surface has been patented with the minerals reserved to the Government:

(a) Is the Government liable for actions and damages of the prospector?

(b) Why does the Government require a bond posted by the prospector in the Government's favor, if it does not recognize that this liability exists?

(c) When the landowner sues for net damages against this bond in court of competent jurisdiction, would attorney fees and court costs be recovered under this bond?

Answer. (a) The Government is not liable for the actions or damages of the prospector. Such liability extends only to the prospector himself.

(b) The bond mentioned in section 9 of the Stockraising Homestead Act is not made unconditionally in favor of the Government. The Act specifies that the bond shall be executed in favor of the United States "for the

use and benefit of the owner of the land to secure payment of such damages * * *.

(c) The provisions of a bond could include one for the payment of attorney fees and court costs in the event it is necessary to file an action on the bond.

20. Question. Will you please advise the form of such bond required?

Answer. Yes. The following is the form of the bond required as mentioned in section 9 of the Stockraising Homestead Act:

"BOND FOR MINERAL CLAIMANTS

"(Act of Dec. 29, 1916, 39 Stat., L. 862)

"Know all men by these presents, that (Give full name and address), citizen of the United States, or having declared (My or our) intention to become -- citizen of the United States, as principal, and (Give full name and address) -----

and ----- as sureties, are held and firmly bound unto the United States of America, for the use and benefit of the hereinafter-mentioned entryman or owner of the hereinafter-described land, whereof homestead entry has been made subject to the act of December 29, 1916 (39 Stat., L. 862), in the sum of ----- dollars, lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, and each and every one of us and them, jointly and severally firmly by these presents.

"Signed with our hands and sealed with our seals this -- day of --, 19--.

"The condition of this obligation is such, that, whereas the above-bounden -----

ha-- acquired from the United States the ----- deposits (together with the right to mine and remove the same) situate, lying, and being within the ----- of section -----, Township -----, Range --, -- M., -- land district, ----- and whereas homestead entry, serial No. ----- has been made at ----- land office, of the surface of said above-described land, under the provisions of said act of December 29, 1916, by --

"Now, therefore, if the above-bounden parties or either of them or the heirs of either of them, their executors or administrators, upon demand, shall make good and sufficient recompense, satisfaction and payment, unto the said entryman or owner, his heirs, executors or administrators, or assigns, for all damages to the entryman's or owner's crops or tangible improvements upon said homesteaded land as the said entryman or owner shall suffer or sustain or a court of competent jurisdiction may determine and fix in an action brought on this bond or undertaking, by reason of the above-bounden principal's mining and removing of the ----- deposits from said described land, or occupancy or use of said surface, as permitted to said above-bounden principal-- under the provisions of said act of December 29, 1916, by ----- then this obligation shall be null and void; otherwise and in default of a full and complete compliance with either or any of said obligations, the same remain in full force and effect.

"Signed and sealed in the presence of, and witnessed by the undersigned:

"Full name of witness -----

"Address -----
(Two witnesses to each signature)

"As to ----- [SEAL]
(Principal)

"----- [SEAL]
(Principal)

"----- [SEAL]
(Surety)

"----- [SEAL]
(Surety)

"(Any erasure, insertion, or mutilation must be certified to as made before signing.)

"The rate of premium charged for this bond is \$----- per thousand. The total amount of premium charged is \$-----.

(Signature of surety officer)

(Title)

21. Question. What would be the prospects of amending the Mining Act of 1872 by requiring the prospector, even before location and discovery, to comply with the three requirements of section 9 of the Stockraising Homestead Act by making it mandatory for the prospector before entering upon the land (1) to receive the written consent or waiver of the surface owner, or (2) pay for damages to crops or other tangible improvements, or (3) execute a bond to secure the payment of such damages?

Answer. It seems that such a proposal might well receive the consideration of both the executive and the legislative arms of the Government.

22. Question. Where the landowner has built a legal fence upon lands that he has a legal right to fence, on lands where he owns the surface and the minerals are reserved to the Government, can the prospector cut, take down, or molest that fence?

Answer. Since the prospector, under the Stockraising Homestead Act, has the right to enter upon the lands for prospecting purposes, it would be permissible for him to take whatever reasonable action that would be necessary to assert that right. However, the prospector would be liable for damages caused to such fences, since his liability extends to damage to improvements on the surface.

23. Question. (a) When were the public lands in the Pumpkin Butte area surveyed?

(b) Can you give us a statement as to the ownership of the minerals in the Pumpkin Butte area, both public and private?

Answer. (a) The Pumpkin Butte area embraces parts of T. 42, 43, and 44 N., Rs. 75 and 76 W. and T. 42 N., R. 77, W., 6th P. M., Wyoming. These townships were surveyed in the field during the period from May 29 to August 2, 1881, and June 26 to September 30, 1882. The township plats were approved December 11, 1882, which is considered to be the date when the townships were officially surveyed.

(b) State land, 3,840 acres.

Public domain, 7,520 acres.

Private land, 15,040 acres.

Stockraising homestead in which minerals are reserved to the Federal Government, 38,920 acres.

Total, 65,320 acres.

24. Question. The patents on stockraising homestead provide, "Excepting and reserving, however, to the United States all the coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same pursuant to the provisions and limitations of the act of December 29, 1916 (39 Stat. 862)," and, accordingly, I would like to know how the Government can authorize a citizen to enter these lands for the prospecting and development of minerals when the right was reserved for the Government only?

Answer. The reservation of the minerals cited above is not limited to a reservation to the United States without the right of the United States to dispose of such minerals. The Act specifically provides for the disposal of such minerals by the United States in accordance with the provisions of the mineral land laws in force at the time of such disposal. At the present time, all minerals except those mentioned in the Mineral Leasing Act are subject to disposal, by location, discovery, and purchase under the United States Mining Law of 1872, as amended. Leasable minerals such as coal, oil, gas, oil shale, phosphate, potassium, sodium, and sulfur in two States are subject to disposal

under the Mineral Leasing Act of February 25, 1920, as amended.

25. Question. Please cite the pertinent section of the Stockraising Homestead Act that permits citizens to prospect the minerals reserved.

Answer. Section 9 of the Act of December 29, 1916 (39 Stat. 864), reads as follows: "That all entries made and patents issued under the provisions of this Act shall be subject to and contain a reservation to the United States of all the coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same. The coal and other mineral deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal and mineral land laws in force at the time of such disposal. Any person qualified to locate and enter the coal or other mineral deposits, or having the right to mine and remove the same under the laws of the United States, shall have the right at all times to enter upon the lands entered or patented, as provided by this Act, for the purpose of prospecting for coal or other mineral therein, provided he shall not injure, damage, or destroy the permanent improvements of the entryman or patentee, and shall be liable to and shall compensate the entryman or patentee for all damages to the crops on such lands by reason of such prospecting. Any person who has acquired from the United States the coal or other mineral deposits in any such land, or the right to mine and remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining or removal of the coal or other minerals, first, upon securing the written consent or waiver of the homestead entryman or patentee; second, upon payment of the damages to crops or other tangible improvements to the owner thereof, where agreement may be had as to the amount thereof; or, third, in lieu of either of the foregoing provisions, upon the execution of a good and sufficient bond or undertaking to the United States for the use and benefit of the entryman or owner of the land, to secure the payment of such damages to the crops or tangible improvements of the entryman or owner, as may be determined and fixed in an action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties thereon, such bond or undertaking to be in form and in accordance with rules and regulations prescribed by the Secretary of the Interior and to be filed with and approved by the register and receiver of the local land office of the district wherein the land is situate, subject to appeal to the Commissioner of the General Land Office: *Provided*, That all patents issued for the coal or other mineral deposits herein reserved shall contain appropriate notations declaring them to be subject to the provisions of this Act with reference to the disposition, occupancy, and use of the land as permitted to an entryman under this Act."

26. Question. In connection with Stockraising Homestead entries and regarding the right of a mining claimant to reenter such lands after location and discovery:

(a) can he reenter to do further prospecting?

(b) can he enter to maintain a residence on the claim, but not to develop the same?

(c) if he enters the land for prospecting is he liable for damages?

Answer. (a) After location and discovery he can only reenter to do further prospecting if (1) he receives the written consent or waiver of the surface owner; or (2) agrees to pay for damages to crops or other tangible improvements. If he does strip or open pit mining he must agree to be liable for any damage that may be caused to the value of the land for grazing as a result of such prospecting, mining, or removal of minerals;

or (3) executes a bond to secure payment for such damages.

(b) No. He can only enter for the purpose of prospecting and mining and use only so much of the surface as is necessary to conduct his mining operations.

(c) If he enters the land for prospecting he is liable for damages even if no bond is filed and the same are collectible by action in the local courts. The damages, however, must be the result of willful acts unnecessary to prospecting, negligence, or carelessness. The law does not require a prospector to give bond prior to location and discovery.

The above is well summarized in the opinion rendered by the Supreme Court of Colorado in the case of *McMullin v. Magnuson* (78 Pac. (2d) 964-973) which held: "It is evident that the statute contemplates that a person qualified to locate mineral deposits may at all times enter the homestead to prospect for minerals thereon, and, as a necessary incident to his right, locate under the appropriate act such minerals as he may discover, subject only to his liability to the homestead entryman or patentee for damages to crops and the prohibition against injury to permanent improvements. Having made his location and thereby secured the right to remove the minerals in the words of the statute he 'may reenter' and occupy so much of the surface as may reasonably be required in his mining operations by securing the consent of the homesteader, paying the damages caused by his operations or filing the required bond. The securing of the particular consent, or in lieu thereof posting the bond, is not a condition precedent to the location, but is incident to the mining operations subsequent thereto. Further, the clear purpose of the statute is not to restrict prospecting and mining operations on lands entered or patented under the Stockraising Homestead Act, but to assure compensatory protection to the homesteader."

27. Question. What would be the prospects of amending the law to require that prospectors give notice to the owner of the surface, who does not own the minerals, or to anyone in possession of the property that he proposes to enter the lands and prospect for minerals?

Answer. It would appear that a proposal for legislation providing for notice to owner of the surface or to the party in possession thereof by a prospector under the United States mining law before entering on the lands for prospecting purposes would receive careful consideration by both the Congress and the executive branch of the Government.

28. Question. What authority does the Bureau of Land Management have for retaining the mineral rights for the Federal Government, when they sell land under Section 14 of the Taylor Grazing Act?

Answer. It has authority to reserve minerals subject to lease under the mineral-leasing laws. This authority is granted by the Acts of March 3, 1909 (35 Stat. 844; 30 U. S. C. sec. 81), and June 22, 1910 (36 Stat. 583; 30 U. S. C., sec. 83), as to coal, and the act of July 17, 1914 (38 Stat. 509, 30 U. S. C. sec. 121), as to phosphate, nitrate, potash, oil, gas, or asphaltic minerals if the lands are withdrawn, or classified or are valuable for these minerals. If the lands are known to be valuable for any other minerals they are not subject to sale under section 14. If not valuable for any minerals, no reservation of minerals is made. In the case of the Acts of March 3, 1909, and June 22, 1910, it can only reserve coal if at the time or prior to issuance of patent, lands are withdrawn, classified, or valuable for coal. Under the Act of July 17, 1914, supra, the Government can only reserve any of the minerals named in the Act if at the time or prior to issuance of patent the lands are valuable for one or more of the minerals named in the Act. The reservation in the patent must name the mineral or minerals

which are reserved. Section 14 of the Taylor Grazing Act is as follows:

"Sec. 14. That section 2455 of the Revised Statutes, as amended, is amended to read as follows:

"Sec. 2455. Notwithstanding the provisions of section 2357 of the Revised Statutes (U. S. C., title 43, sec. 678) and of the Act of August 30, 1890 (26 Stat. 391), it shall be lawful for the Secretary of the Interior to order into market and sell at public auction, at the land office of the district in which the land is situated, for not less than the appraised value, any isolated or disconnected tract or parcel of the public domain not exceeding 1,520 acres which, in his judgment, it would be proper to expose for sale after at least 30 days' notice by the land office of the district in which such land may be situated: *Provided*, That for a period of not less than 30 days after the highest bid has been received, any owner or owners of contiguous land shall have a preference right to buy the offered lands at such highest bid price, and where two or more persons apply to exercise such preference right the Secretary of the Interior is authorized to make an equitable division of the land among such applicants, but in no case shall the adjacent landowner or owners be required to pay more than three times the appraised price: *Provided further*, That any legal subdivisions of the public land, not exceeding 760 acres, the greater part of which is mountainous or too rough for cultivation, may, in the discretion of the said Secretary, be ordered into the market and sold pursuant to this section upon the application of any person who owns land or holds a valid entry of lands adjoining such tract, regardless of the fact that such tract may not be isolated or disconnected within the meaning of this section: *Provided further*, That this section shall not defeat any valid right which has already attached under any pending entry or location. The word 'person' in this section shall be deemed to include corporations, partnerships, and associations" (43 U. S. C. 1171)."

29. Question. Can a mining prospector travel across full unrestricted patented lands if posted against trespass without the owner or occupant's consent?

Answer. The answer to this question would have to be derived from a study of the laws of the State. The Federal Government has no jurisdiction over land the full title to which has passed into private ownership.

30. Question. Can a mining prospector cross unrestricted fee lands on a road that has been traveled for 25 years but not designated as a county road in order to locate a mining claim on Government lands over objection of owner or occupant of land?

Answer. The United States would have no jurisdiction over the unrestricted fee lands. The right to cross such lands to reach Government lands for the purpose of prospecting or mining the latter would be a matter of private agreement between the prospector or locator and the owner of the patented lands. However, the respective States have usually legislated as to easements "by necessity" and such laws would be applicable to the situation mentioned.

Lindley on Mines, 3d edition, section 531 states: "The right of the United States to grant easements and other limited rights on any portion of its public domain cannot be gainsaid, and subsequent purchasers must take it burdened with such easements or other rights. But when it has once disposed of its entire estate in the lands to one party, it can afterward no more burden it with other rights than any other proprietor of lands."

31. Question. (a) Assuming that it will be necessary for a mining prospector, upon leaving a public road, to cross fee lands which do not have a road of any character and which have been posted against trespass in order to obtain access to Govern-

ment lands for the purpose of making mining location, please let me know whose duty it is to make arrangements for the miner to cross these fee lands and, in particular, to advise if the Government makes any arrangements of that character at all.

(b) Will the United States take any steps to obtain for the miner the right to cross these fee lands and if so, what arrangements will the Government make to pay for such privilege?

Answer. (a) Ordinarily, any landowner, including the United States, is obliged to make connection between his own lands and the public roads and highways without trespassing on fee lands. Thus, no one has a duty to make arrangements for a mining prospector to cross fee lands which have no road across them and which are posted against trespass in order that such a prospector may gain access to Federal lands.

Under Wyoming law, if the Federal Government, as owner of land which has no outlet to nor connection with a public road, wishes to do so, it may apply to the board of county commissioners of the county in which the land is situated for establishing a private road leading from the Federal land to some convenient public road in accordance with section 48-331, 332, 333 of the Wyoming Compiled Statutes (1945 ed.). Under these statutory provisions, private property may be condemned for building a road in accordance with specified procedures. However, a private landowner applying for such a road must pay for the land in fee over which the road is to be built and must also pay the costs for locating such a road.

Generally, if without unreasonable trouble and expense, there is any way by which a landowner can connect his property with a public road without using private property of another, the owner is required to use such other way, and private property will not be condemned for an access road under statutes authorizing condemnation of private property for such a purpose.

No instances are known in which the Government has arranged for a mining prospector to cross fee lands in order to gain access to Federal lands for the purpose of locating mining claims.

It is possible for mining prospectors to petition the county commissioners in the county in which the land is situated or the State highway department and request that roads necessary to gain access to the Federal lands be built by the county and/or the State (48-303, 307 Wyoming Compiled Statutes).

(b) It is not possible for the United States to take any steps to make it possible for miners to gain access to Federal land over what is now private fee land.

32. Question. (a) Can a mining prospector, the State of Wyoming, or the United States take legal action to compel the owner of fee lands to permit the prospectors to cross his land in order to reach Government land for a uranium-mining location, particularly in the event the Government itself states that there is little likelihood of uranium being discovered on such lands?

(b) Will the State of Wyoming or the United States, in your judgment, take any such action?

Answer. (a) A mining prospector ordinarily cannot take action to compel a private owner to permit the prospector to cross private lands for prospecting on Federal lands. (Sec. 3-6301, Wyoming Compiled Statutes (1953 Supp.)), which authorizes anyone who requires a right-of-way of necessity for, among other purposes, mining, to enter upon private lands to examine and make surveys for, inter alia, mine truck haul roads does not seem to be applicable in circumstances where there is no mine already in existence.)

The Wyoming State Highway Commission and the county commissioners of counties

in Wyoming have power to condemn private lands for establishing roads and highways and owners of such private lands must be compensated therefor in accordance with Wyoming statutes (secs. 48-105, 302-327, Wyoming Compiled Statutes). Public roads may also be established upon the order of the board of county commissioners provided that written consent of the owners of the land to be used for that purpose is first filed in the county clerk's office, and that the board is satisfied that such a road is of sufficient importance to be opened and traveled.

Section 24-801, Wyoming Compiled Statutes, authorizes the United States to acquire any land in Wyoming by purchase or condemnation which is essential to the national defense, subject to a mineral reservation. The circumstances here involved do not seem to indicate that crossing of private land is essential to the national defense. The power of eminent domain in the United States has not been considered here because a cursory examination of the statutes authorizing the United States to condemn land indicates that they probably do not extend to the facts of the instant situation.

(b) It is not known whether the State of Wyoming or the United States will take any such action in this situation.

33. Question. In the early days, prospectors traveled on foot but now they move about in trucks and tractors. I would like to ask:

(a) Must the owner of fee lands permit prospectors with such vehicles to enter fee land and to use water on his lands, to camp on his lands and to carry firearms on his lands especially in the case where the landowner absolutely prohibits their entry on his land?

(b) Can the mining prospector enter on Government lands which are leased for grazing purposes to a rancher under the conditions mentioned in (a)?

Answer. (a) This question may refer either to the right of prospectors to make use of the fee land in reaching public lands beyond it, in which case it has been discussed under questions 27 and 28, or to the right of prospectors to perform the listed acts on the fee land itself. In the latter situation the right of a prospector to enter and to camp on fee lands is a matter of State law, under which presumably a fee owner has the right to keep trespassers off his land. The carrying of firearms is also a matter of State law.

Although by the Desert Land Act (43 U. S. C., 1952 ed., sec. 321 et seq.), the acquisition of title to public land did not carry with it water rights, but all nonnavigable waters were reserved for use of public under laws of the State in which the land is situated, no Federal law has been found which would permit a prospector to enter upon patented lands in trespass to appropriate water thereon. See cases cited in 30 U. S. C. A. sec. 51, n. 40, 42. Thus, the right of a person to use water on fee lands for camping purposes is also a matter to be determined under the State law relating to trespass.

(b) Lands leased by the United States for grazing permits under section 15 of the Taylor Grazing Act (43 U. S. C., 1952 ed., sec. 315m) are open to prospecting under section 7 thereof. The regulation dealing with such leases states:

"Nor shall such lease restrict or limit prospecting, locating, developing, mining, or patenting the mineral resources of the leased lands; miners, prospectors, and mineral lessees of the United States and all other authorized persons shall be entitled to enter the leased lands" (43 CFR 160.13 (19 F. R. 8953)).

Lands subject to a grazing permit issued to section 3 of the act are left open to mineral prospectors by section 6 which states:

"* * * and nothing herein contained shall restrict prospecting, locating, developing,

mining, entering, leasing, or patenting the mineral resources of such districts under laws applicable thereto."

34. Question. I own lands patented under the Desert Land Act and I should like to know if I own the uranium found on these lands.

Answer. Yes. The only minerals which may be reserved are Leasing Act minerals such as oil, gas, phosphate, coal, sodium, nitrate, potash, and asphaltic minerals if the lands are found to be valuable for the particular mineral reserved or withdrawn or classified as valuable.

35. Question. Does the landowner have to permit trailer houses, trucks, and big equipment to trespass over his fee land in getting to United States minerals on other adjoining lands?

Answer. The United States has no jurisdiction over fee lands. Rights of access are governed by State law.

36. Question. If mineral claims are staked on lands where the owner has mineral rights, what rights has the landowner?

Answer. If the landowner owns the mineral rights a mining claim cannot lawfully be staked on the land and anyone who attempts to do so would be in trespass. The United States mining laws apply only to lands and minerals belonging to the United States. A landowner who owns the minerals in his land may protect the minerals against trespass in the same manner and to the same degree that he can protect any other property he owns.

37. Question. (a) What difference would it make where trespass signs have been erected on patented fee land? on patented stockraising lands? on Taylor leased lands?

(b) What damages would the landowner be entitled to, under these same conditions?

(c) What royalty would the landowner be entitled to, under these same conditions?

Answer. (a) On land patented without a mineral reservation the fact that such signs were posted if plainly visible no doubt would aggravate the trespass and justify more severe punishment. On patented stockraising land a no-trespass sign could not override the prospector's legal authority to enter. On Taylor leased lands the law expressly says that the land shall continue at all times open to prospecting and mining. The law necessarily would govern in such case.

(b) The landowner who also owned the minerals would be entitled to whatever damages were agreed upon or fixed by the court in an appropriate action. A court conceivably might award exemplary damages. The stockraising patentee would be entitled to damages to crops and permanent improvements and if strip mining was involved to damage to the soil insofar as it affected stockraising use.

(c) There is no law giving the landowner a royalty where the minerals are owned by the United States. The landowner who owns the minerals may lease them at whatever royalty he can obtain.

38. Question. How may the prospector or anyone else enter upon or cross fee lands upon which an unrestricted patent was issued granting the patentee both the surface and mineral rights, without the permission or agreement of the landowner for any purpose, especially if the lands are posted against trespass.

Answer. The only way that a prospector or other person may enter upon or cross lands owned by another in fee simple under an unrestricted patent is to obtain the owner's consent or permission or otherwise the person so entering is committing a trespass. Posting of the lands against trespass would neither enlarge nor diminish the owner's right to protection under the trespass laws, though such posting might make a stronger case of voluntary trespass and thus increase the damages which he could possibly recover in the courts. It is possible, of course, that

the prospector may be given some special right of entry under State law.

39. Question. What recourse does the landowner have when entry has been made without his permission or agreement on fee lands where the landowner owns both the surface and the minerals and the lands have been posted against trespass, and mining claims filed and recorded within the boundaries of such lands?

(a) How are the titles and abstracts corrected on such lands?

(b) Whose liability?

(c) What recourse does the landowner have for reimbursement of expenses made in connection with surveys, abstracts, clouded titles and attorney fees in connection with such unlawful entry?

Answer. The recourse of the owner of lands in fee simple against a person who enters or crosses his lands without permission is under the trespass laws of the State and in the appropriate local courts. Privately owned lands are never subject to location under the mining laws.

(a) Attempted mining claims on lands owned in fee simple are not clouds against the owner's title, even though recorded and appearing in the abstract of title, since a title examination is clearly indicative of the invalidity of the mining claims. Therefore no action need be taken to clear the title.

(b) The trespasser is liable in damages to the landowner under the trespass laws of the State.

(c) These would be items of damages which the court might consider as reimbursable in a trespass action.

40. Question. What right does a mining prospector have to bring about condemnation proceedings for the acquisition of a right of way across fee lands in order for him to reach Government lands for prospecting purposes?

Answer. Whatever rights of condemnation, if any, the prospector might have would be those granted to him under State law.

41. Question. One person owns the surface and another owns the mineral rights, how may anyone enter upon the surface of the lands without the permission of the surface owner?

Answer. It would be unlawful for a person to enter upon the surface without the surface-owner's permission unless he were the agent of the owner of the mineral rights and his entry were for the purpose of working the minerals for and on behalf of the owner thereof.

42. Question. Can a prospector cross over the surface of other lands owned by the surface owner if the lands are posted against trespass and he does not have the consent of the landowner, in order to get to the surface of lands on which the surface owner owns the surface, and mineral right owner has the minerals leased to the prospector?

(a) What recourse does the surface owner have to recover damages and what legal steps must he take?

Answer. The prospector cannot lawfully enter upon and cross lands owned by another without permission in order to reach lands on which he may have the right to prospect under the Stockraising Homestead Law. The only recourse the surface owner would have in the event of such unlawful entry would be that afforded under the trespass laws of the State.

43. Question. On either national forest lands or on Bureau of Land Management lands:

(1) May an angler fish along a stream or river which runs through a posted mining claim?

(2) May a hunter walk over a mining claim on public domain or national forest lands?

(3) Is it legitimate for the owner of a claim to post such area against trespass?

Answer. Under the mining laws the locator of a valid mining claim has the exclusive right of possession of the mining claim. He

may use this right only for mining purposes or purposes reasonably incident thereto. The Federal Government, as a holder of the legal title to an unpatented mining claim, has certain rights and duties with respect thereto. However, the holder of the mining claim has the same rights as to the protection of the mining claim from trespass as does the person who has a patent for his land. Therefore, the holder of a mining claim may post his claim against trespass. In doing so he would, of course, rely upon State law and would have to invoke the provisions thereof in protecting his private rights. Thus, unless State law provides otherwise, the holder of a mining claim could prevent hunters and fishermen from hunting or fishing upon the claim.

44. Question. What rights do permitted livestock on the national forests have to graze on mining claims located on a grazing allotment?

Answer. Under the mining laws the locator of a valid mining claim has the right of exclusive possession of the claim. He can exercise this right only for mining purposes. The existence of the right enables him generally to prevent others from using the claim even though there may be no conflict between such other use and his mining use. The legal title to an unpatented mining claim is still in the United States and when the claim is located within a national forest it continues to constitute a part of the national forest until it is patented. The United States may prevent any unauthorized use of the mining claim either by the locator or anyone else. Regardless of the provisions of State laws no one may graze livestock on national forest lands without the permission of the United States. Therefore, even though a State may have what is commonly known as open range laws the burden is on the owner of livestock to keep his livestock off of national forest lands unless he has a permit to graze the livestock on such lands, but under the open range laws there is no burden upon the owner of livestock to keep them off of privately owned range. Under these circumstances, permitted livestock on the national forests may graze on mining locations unless the mining locator undertakes to prevent the livestock from grazing on the claim.

45. Question. Ten-year grazing permits on the national forests expire at the end of 1955. What is the Forest Service going to do about renewing 10-year permits on grazing allotments which have a large number of mining locations on them?

Answer. Since we believe that the claimant cannot dispose of forage on the claim on a commercial basis, and only the forage needed by domestic stock in connection with mine operations may be used by the claimant, the Forest Service will issue 10-year grazing permits on grazing allotments on which mining locations exist, to the full grazing capacity of the allotment except to the extent that it is known that mining activity will prevent such use.

46. Question. What does the Forest Service intend to do about charging grazing permittees for the use of forage on mining locations?

Answer. Since the Forest Service intends to issue permits for the full capacity of the allotments on which mining locations exist, except to the extent mining activities will prevent it, charges will be made for the grazing capacity of mining locations.

47. Question. Can a national forest grazing permittee get a refund if the mining claimant's activities prevent the permittee from utilizing the forage on or near the mining location?

Answer. Where mining activity reduce the amount of forage available, the situation will be investigated and a refund made to the permittee for the loss of forage through no fault of his own.

48. Question. Can a mining claimant on forest lands grant grazing leases and collect

money for livestock grazing on his mining location?

Answer. The holder of an unpatented claim has no authority to use the claim for other than mining purposes. Under that principle he cannot legally lease grazing rights.

49. Question. What effect do State open-range laws have on grazing of permitted livestock on mining locations?

Answer. Insofar as the Federal Government is concerned, State open-range laws have no effect upon the Government's rights where livestock has grazed on its lands without its permission. However, where the Government has given its consent for livestock to graze on its property, the State open-range laws do place upon the person who has established private property rights—as by filing a mining location—the burden of keeping livestock off the mining claim.

50. Question. Can a mining claimant legally fence his claim and thereby exclude livestock which are permitted to graze on the national forests?

Answer. The holder of a valid claim has no authority to use the claim for other than mining purposes. He could fence the claim to provide a pasture for stock used in connection with mining or to keep outside stock from interfering with his mining operations. There is no blanket answer to this question and each case would have to be decided on the particular situation on the claim involved.

51. Question. What are the rights of the mining claimant to build roads across national forest lands for ingress and egress to his locations? What can the Forest Service do to make sure that such roads minimize damage to soil, forage, and other resources?

Answer. The owners of private property—including valid, unpatented mining claims—have the right to build access roads across national forest lands to their property, subject to reasonable conditions to prevent damage. The claimant must notify the Forest Service of his intention to construct such a road, must enter into the required stipulations, and must construct the road on a location and to the standard required by the Forest Service. The primary interest of the Forest Service is to see that the road will cause a minimum of erosion and damage to national forest resources.

Prospectors also have the right to enter upon national forest lands for prospecting, but do not have the right to construct a road.

The question of when a route used for truck travel or bulldozers becomes a road is a practical one which would have to be decided in each particular case.

52. Question. Can a mining prospector post a claim and prohibit trespass after making valid location as against—

(a) The general public?

(b) Holder of Taylor grazing lease on same lands?

Answer. (a) Yes. Citing from *Miller v. Chrisman* (140 Cal. 440):

"One who thus in good faith makes his location, remains in possession and with due diligence prosecutes his work toward a discovery is fully protected against all forms of forcible, fraudulent, surreptitious, or clandestine entries and intrusions upon his possession. Such entry must always be peaceable, open, and above board, and made in good faith or no right can be founded on it."

The owner of a valid mining claim has the exclusive right of possession to his claim as against all other private persons not having a better right and may keep such persons off the claim or prosecute them for trespass.

(b) The owner of a claim does not have a title superior to that of the United States, which holds the legal title. He is also subject to the operation of State laws, including the law of the open range, and if his claim is

unfenced it may be grazed by cattle belonging to others.

Specifically Taylor Grazing Act leases and permits are issued without regard to possible mining claims of which there is no record in the land office. In such case if the State has an open-range law the locator cannot, merely by posting his claim, prevent grazing on it.

It is the position of the Department of the Interior that the miner holds his claim for mining purposes only and any surface use by the Government for grazing which does not interfere with his mining use would not be in derogation of his rights.

53. Question. Can the Bureau of Land Management continue to dispose of the grass on lands covered by a valid mining claim against the wishes of the locator of such claims?

Answer. Where there is an open-range law, as in Wyoming, and the mining claim is inadequately fenced under State law, cattle may graze on the mining claim.

Also, mining claimants may use only so much of the surface of their claims as may be reasonably necessary in the legitimate mining operations, that such claims within an established grazing district are subject until the issuance of patent to administration by this Department and that license fees for the grazing use of the surface thereof may properly be levied. (Appropriate charges may also be made for grazing where authorized—if outside of grazing district.)

54. Question. Can a mining claimant on Taylor grazing lands grant grazing leases and collect money for livestock grazing on his mining locations?

Answer. The locator of a valid mining claim who has not filed an application for patent and has not paid the purchase price therefor has only a possessory right to the mining claim and to the land included in such mining claim. Such locator may use his unpatented mining claim and so much of the surface as is necessary for mining purposes only. *United States v. Rizzinelli* (182 Fed. 675); *Teller v. United States* (113 Fed. 273). Paramount title to the lands remains in the United States. The Taylor Grazing Act authorizes the Secretary of the Interior to regulate grazing on the public lands of the United States. Section 6 of the act provides in part that nothing contained therein shall restrict prospecting, locating, developing, mining, entering, leasing, or patenting the mineral resources of such lands under laws applicable thereto.

It has always been the position of the Department that it may issue grazing leases and permits on land in a mining location provided such nonmining use does not interfere with the locator's use for mining. The position of the Government has recently had a severe setback in a case, *United States v. Etcheverry* (Civil No. 4103, District Court of Colorado, 1955). In that case Etcheverry had a lease from the mining locator who had only possessory title at the time of the lease. The United States sued for an injunction against Etcheverry and for damages for the trespass grazing. During the pendency of the suit the mining locator filed an application for patent and paid the purchase price and a final certificate was issued to the locator. The court thereupon dismissed the action of the United States for an injunction and for damages, citing as grounds for its decision that by accepting payment for the lands involved and issuing the final certificate to the locator the United States had relinquished all its interest in the property in question and therefore could not maintain against the grazing trespasser for alleged trespasses committed on the land prior to the issuance of the final certificate. The court relied on the number of homestead cases as precedent, particularly in *United States v. Freyberg* (32 Fed. 195). It is our position in recommending to the Department of Justice that an appeal

be taken in this case from the court's decision that the court should have relied on the precedent of *Teller v. United States* (113 Fed. 273). In that case, Teller was convicted of unlawful timber cutting even though the locator, the trespasser's lessor, had filed an application for a patent and had been issued a final certificate. Our appeal in the Etchevery case has not yet been filed.

55. Question. What effect do State open range laws have on grazing of permitted livestock on mining locations, particularly in Wyoming?

Answer. The Wyoming Compiled Statutes, 1945, section 57-911, provides that every person, company, etc., who has sunk mining shafts, pits, etc., or shall hereafter sink such openings shall secure such shafts against injury or destruction of livestock running at large on the public domain, by securely covering such shafts in a manner to render them safe and to prevent livestock from falling into or being injured thereby, under penalty of conviction of a misdemeanor and liability for any damages sustained through injury or loss of livestock. Under the open range law one cannot be prosecuted because his cattle graze on unenclosed land claimed by another.

As to the Federal statutes, the Taylor Grazing Act grants the Secretary exclusive power to grant permits for use of public domain.

It is the necessary conclusion from the above that one having a permit under the Taylor Grazing Act may permit his cattle to graze over mining claims within his permit and the burden of preventing damage to them because of mine workings is on the claim owner.

56. Question. What are the rights first, of a fee simple owner, and second, a permittee, holding grazing rights from the Bureau of Land Management either in a grazing district or on a section 15 lease?

Answer. The owner of land in fee simple would have full right to the surface and minerals therein, and would enjoy the full protection of State trespass laws. The owner of the surface under a Stockraising Homestead patent would have the same right to trespass protection, subject, however, to the right of others to prospect for, locate and remove the minerals therein provided the indemnity provisions of section 9 of the Act are complied with.

A grazing lessee of the United States would also have the protection of State trespass laws since, under his lease, he is the owner of the possessing right to the land. The possessing right under the lease is subject, however, to the right of qualified persons to prospect for and locate the minerals thereon under the United States mining laws.

A grazing permittee would not have the protection of the trespass laws of the State, since he has not been granted any exclusive possessing right, but, under his permit, only has the right to use the lands for the purposes stated in his permit.

57. Question. What constitutes trespass? Malicious trespass?

Answer. There is no general statutory law in Wyoming pertaining to trespass. There are specific provisions on the subject, such as the section confirming the right of the settler on public lands to bring an action of trespass (sec. 24-603, Wyo. Comp. Stat. Ann. 1945), the section requiring a drover to prevent his livestock from trespassing on another's property (sec. 56-523); and the section setting a 4-year statute of limitations on suits for real-property trespass (sec. 3-506). There are also criminal trespass provisions making it a misdemeanor to "maliciously or mischievously" injure property (sec. 9-2003), to occupy State-owned lands (sec. 24-517), and to "knowingly and willfully" trespass on lands owned by or mortgaged to the Wyoming farm loan board by grazing, timber cutting, etc. (sec. 21-128).

Malice is significant therefore in Wyoming criminal-trespass law (sec. 9-2003). This

specific provision was interpreted in *State v. Johnson* (7 Wyo. 512, 54 Pac. 502 (1898)). In that case the defendant drove his sheep across the prosecuting witness' lands to a railroad station, the sheep destroying no more of the grass than would ordinarily be destroyed in passing over the lands. The court found the defendant not guilty of violation of the statute where it did not appear that his action of crossing his sheep over the prosecuting witness' lands was malicious. The court said that malice is something more than that which is ordinarily inferred from the willful doing of an unlawful act without excuse. There must be a deliberate intention to injure.

The court cited with approval a case holding that the act must not only be "willful (that is, intentional and by design, as distinguished from that which is thoughtless or accidental)," but "the jury must be satisfied that the injury was done out of a spirit of cruelty, hostility, or revenge."

The court in *State v. Johnson*, *supra*, expressly declined, as unnecessary to its decision in a criminal case, to make any finding as to whether there was a civil trespass. The court did say that it was settled that mere roaming of cattle without intentional herding of livestock upon unfenced private land in the West does not constitute a trespass. See also *Western Wyoming Land and Livestock Co. v. Bogley* (279 Fed. 632 (1927)); *Martin v. Platte Valley Sheep Co.* (76 Pac. 571 (1904)). The court further states in *State v. Johnson*, *supra*, that it had been contended that the herding of sheep on another's property was a civil trespass. The Wyoming courts in a case of trespass consisting of clearly intentional herding of sheep on unenclosed lands, allowed punitive or exemplary damages based on "the wantonness, maliciousness, or recklessness of the act." *Cosgriff v. Miller* (68 Pac. 206 (1902)).

The general law of trespass to land has been defined as an invasion of the interest in the exclusive possession and physical condition of the land. Restatement of the Law of Torts, section 157 et seq.

The common law rule was very broad since it included as a trespass any unauthorized entry upon the soil of another, "for the law bounds every man's property and is his fence"; but the law has been modified by some courts to impose liability only if the invasion is intended, negligent, or the result of extrahazardous activity. Prosser on Torts, 1941, section 13. Under strict common law, the act must be voluntary, but it need not be shown to be negligent or with an intent to do harm. In the Western States, as indicated by the Wyoming cases cited above, failure to actually fence land is material in determining whether a trespass has been committed. It appears to be the general western rule that roaming cattle do not commit an act of trespass on unfenced land. If proof is submitted that the trespass was committed knowingly, as when warned by the owner of the lands through posting of signs or otherwise, there would appear to be clear liability in States like Wyoming as well as under the strict common law.

The defendant appears to be liable for an intentional entry although he has acted in good faith, under the mistaken belief, however reasonable, that he is committing no wrong. Thus, he is a trespasser although he believes that the land is his own, or that he has the consent of the owner, or the legal privilege of entry. The interest of the landowner is protected at the expense of those who make innocent mistakes. Prosser on Torts, section 13.

The general rule appears to be that willful or wanton trespass may be subject to exemplary or punitive damages. In Prosser on Torts, section 2, it was stated:

"Where the defendant's wrongdoing has been intentional and deliberate, and has the character of outrage frequently associated

with crime, all but a few courts have permitted the jury to award in the tort action 'punitive' or 'exemplary' damages, or what is sometimes called 'smart money.' Such damages are given to the plaintiff over and above the full compensation for his injuries, for the purpose of punishing the defendant, of teaching him not to do it again, and of deterring others from following his example. Something more than the mere commission of a tort is always required for punitive damages: there must be circumstances of aggravation or outrage, such as ill will or a fraudulent or evil motive on the part of the defendant, or such a conscious and deliberate disregard of the interests of others that his conduct may be called willful or wanton. Typical of the torts for which such damages may be awarded are assault and battery, libel and slander, deceit, seduction, and intentional interferences with property such as trespass or conversion; but it is not so much the particular tort committed as the defendant's motives and conduct in committing it which will be important as the basis of the award."

58. Question. Is the United States Government attempting to encourage the oil and gas industry to enter the uranium business? If so, why?

Answer. The Department of the Interior is not actively encouraging anyone to enter the uranium business. Its dealings with the oil and gas lessees are under and pursuant to the terms of the oil and gas leases.

59. Question. Will those parties who have heretofore staked in said closed area be required to remove their stakes or otherwise, will the Atomic Energy Commission or some other agency see to it that the stakes are removed before the area is again opened?

Answer. No. The Bureau of Land Management does not intend to take any steps to remove these stakes, and we are informed neither does the Atomic Energy Commission. It will be a matter between the subsequent occupant of the land and the persons who unlawfully erected the stakes. The claims are invalid and the stakes may be ignored. However, we have no control over the parties and if they wish to bring any action in court against subsequent locators it would be up to the court whether or not it permitted such an action to be filed.

60. Question. (a) In regard to the recent Pumpkin Buttes uranium disputes I am interested in obtaining a clear interpretation of Public Land Order No. 1043. The order as it is written has done nothing but cause confusion and the writing of it, beyond the comprehension of the average citizen, is inexcusable. The blame for the recent unfortunate incidents in the Buttes, for this reason, should not be placed on neither the rancher nor the prospector but on the Federal Government.

In addition, several responsible Federal employees in Wyoming have been reported as stating that the Buttes were open to staking. Also, it appeared that the Department of the Interior was not interested in commenting on Public Land Order No. 1043 or giving any advice on it. Will you please explain why the order was so involved and complex and, further, that no clarification was made by the Secretary of the Interior?

(b) Are the numerous mining claims staked in the Pumpkin Buttes area in good faith on information made available partly from Government officials before May 3 last in full force and effect?

Answer. (a) Public Land Order No. 1043 provides that the revocation of Order No. 811: " * * * shall not otherwise become effective to change the status of the described lands until 10 a. m. on the 35th day after the date of this order. At that time the said lands shall become subject to application, petition, location, and selection, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable laws, and the 91-day preference right filing period

for veterans and others entitled to preference under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284), as amended."

Unfortunately, the word "location," which has been used by this Department and the courts for many years in referring to the use of various kinds of scrip, *Bedford Wilshire Co.* (A26736 (July 22, 1954)), *Porterfield scrip*; *Solicitor's Opinion M-36084* (June 25, 1951), *Valentine scrip*; *El Mirador Hotel Co.* (A25287 (March 1, 1949)), *Girard scrip*; *West Coast Exploration Company v. Douglas McKay, Secretary of the Interior* (213 Fed. 2d 582 (January 26, 1954)), *Girard scrip*; such as *Valentine* and *Girard* scrips, was construed by the public as meaning mining locations, whereas the word related only to scrip locations. So far as we know this is the first instance that the word has been so misconstrued although the form used for the order is one which has been in use for some years. However, in the latter part of March of this year, the Branch of Land Management, Office of the Solicitor, working with the Bureau of Land Management, drafted a revised form for orders of revocation, eliminating the word "location" except where the order specifically states that mining locations can be made on the date specified. It is hoped that the new form soon will be available for use.

To have permitted mining locations before the expiration of the 91-day period referred to in order No. 1043 for filings by veterans, in many instances, would have defeated the purposes of section 4 of the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 282). Under that section veterans are accorded preference rights of filings, inter alia, under the Small Tract Act. Such filings cannot be made on lands covered by valid mining locations, but small tracts can be filed on unlocated mineral land. If order No. 1043 had not been revoked by order No. 1138 of April 27, 1955, the lands would have been open to mining location at 10 a. m. on May 3, the 126th day from December 28, 1954, the date of order No. 1043, and such locations might have defeated the veterans' preference right to file for small tracts.

(b) Although it is regrettable if a Government official gave information, which proved to be erroneous, as to the date when a mining location could be made, the general rule is that such information is relied on at the risk of the recipient. Such information cannot modify or change the terms of a Secretary's order. Therefore, mining locations made on the lands withdrawn by Public Land Order No. 811, which order No. 1043 was intended to revoke, are invalid as order No. 811 still remains in effect.

61. Question. It has been stated that a large number of people have entered the lands included within the Pumpkin Butte withdrawal. My questions are:

(a) Do they acquire any right by reason of staking before the land is open?

(b) Will these stakes be removed before the land is opened?

Answer. (a) No. The lands having been withdrawn from all forms of appropriation under the public-land laws, including the mining (but not mineral-leasing laws), and reserved for the United States Atomic Energy Commission (Public Land Order 811), no rights under the mining laws were acquired by staking before the land was open thereto.

(b) Not by the Government. Parties lawfully locating mining claims when the lands are properly opened may remove the former unlawful stakes.

62. Question. Would mining locations made after February 1, 1955, in the Pumpkin Buttes area (that date being 35 days after the date of the order revoking the withdrawal) be valid under the mining laws of the United States?

Answer. No. The Veterans' Preference Act (43 U. S. C., sec. 282) provides a period of 90 days for veterans to exercise their right to apply for surface rights under the Home-

stead, Small Tract, and Desert Land Acts. That 90-day period runs from the end of the 35-day period. The word "location" in the revocation order refers only to the right to locate scrip and not to location under the mining laws. The Solicitor's letter of May 12, 1955, to Senator JOSEPH C. O'MAHONEY on this subject is as follows:

UNITED STATES
DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D. C., May 12, 1955.
Hon. JOSEPH C. O'MAHONEY,
United States Senate,
Washington, D. C.

MY DEAR SENATOR O'MAHONEY: I have your memorandum of May 4 wherein you request a clarification of the effect of Public Land Order No. 1043 (20 F. R. 53) dated December 28, 1954, which revoked the withdrawal of the Pumpkin-Buttes area effected under Public Land Order No. 811 (17 F. R. 2132) of March 7, 1952. Subsequently the revocation of the withdrawal (Public Land Order No. 1043) was itself revoked by Public Land Order No. 1138 (20 F. R. 2892) of April 27, 1955.

The particular question you have raised is whether, under the 90-day veterans' preference right provisions of the act of September 27, 1944, as amended (43 U. S. C., sec. 282), mining locations made after February 1, 1955 (that date being 35 days after the date of Public Land Order No. 1043) and prior to April 27, 1955 (the date of Public Land Order No. 1138), would be valid under the mining laws of the United States. You have asked further whether there is any provision of the act of September 27, 1944, supra, or any other act, under which the 90-day preference period provided in Public Land Order No. 1043 would run from any date other than February 1, 1955.

As you have pointed out, the revocation order of December 28, 1954 (Public Land Order No. 1043) provided that the revocation " * * * shall not otherwise become effective to change the status of the described lands until 10 a. m. on the 35th day after the date of this order. At that time the said lands shall become subject to application, petition, location, and selection, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable laws, and the 91-day preference right filing period for veterans and others entitled to preference under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284), as amended."

Since the original withdrawal (Public Land Order No. 811) specifically withdrew the lands described therein "from all forms of appropriation under the public-land laws, including the mining but not the mineral leasing laws," it becomes important to determine whether any mining locations made prior to the 126th day after the date of the revocation order of December 28, 1954 (Public Land Order No. 1043) are valid under the mining laws.

It appears that whatever misunderstanding exists with regard to the effect of the revocation of the restoration of these lands from withdrawal, arises from the unfortunate use of the word "location" in the above-quoted portion of the order. The use of that term is unfortunate, for the reason that while it has no reference to a mining "location" under the mining laws, its inclusion in the order could justifiably result in an incorrect interpretation of the effect of the order as a whole.

The provision of the order that it shall not become effective to change the status of the lands until the 35th day after the date thereof would, of course, preclude the location of any mining claims during that period. Thereafter the order provides for the veterans' preference right period and spells out the periods during which applications from veterans and the general public may be filed and the periods during which

those applications will be treated either as simultaneously filed or as having priority in the order of their filing. The effect of the order with respect to the 35-day period and the additional 91-day veterans' preference period is as follows:

(1) During the 35-day period no applications or filings either by veterans or the general public can be effective to segregate the lands applied for.

(2) During the 91-day veterans' preference period, applications by veterans are effective to segregate the lands applied for.

(3) Applications by either veterans or the general public may be deposited in the Land Office during the entire 126-day period, but those deposited by the general public are not effective as filings and do not operate to segregate the lands applied for until the 126-day period has expired; those deposited by veterans on or before 10 a. m. on the 35th day after the date of the order are treated as simultaneously filed, as are those deposited by the general public on or before 10 a. m. on the 126th day after the order.

It should be noted that in the use of the phrase "the said lands shall become subject to application, petition, location, and selection," it is contemplated that the lands shall become subject to filings in the land office. This is apparent from the fact that thereafter the order makes continuous reference to applications filed, and that each such reference to those filings could have continued the prior use of the words "application, petition, location, and selection," rather than the word "applications" alone.

The term "location" as used in this order has been included in restoration orders down through the years as referring to the right of scrip owners to locate such scrip on open public lands of the United States. In other words, those persons holding valid scrip rights may, under applicable public land laws, make application to enter public lands for the purpose of "locating" their scrip, and their rights thereunder are comparable to those of applicants under the other public land laws. The use of such scrip for the purpose of obtaining rights to a particular tract of public land has always been referred to within the Department, and in the courts as well as "location" of the scrip. *Bedford Wilshire Company* (A-26736 (July 12, 1954)), *Porterfield Scrip*; *Solicitor's Opinion* (M-36084 (June 25, 1951)), *Valentine Scrip*; *El Mirador Hotel Company* (A-25287 (Mar. 1, 1949)), *Gerard Scrip*; *West Coast Exploration Company v. Douglas McKay, as Secretary of the Interior* (213 Fed. 2d 582 (Jan. 26, 1954)), *Gerard Scrip*. It seems clear, therefore, that the term "location," as used in the order under consideration, refers only to another type of application under the public land laws, which application, along with the other types referred to, would be filed in the land office.

The fact that under the wording of the order, all "applications" referred to are to be "filed," further indicates that the use of the term "location" in the order did not refer to mining locations. Under the United States mining laws, locations of mining claims are not required to be filed anywhere, the only requirements being a discovery of valuable mineral and a location of the claim on the ground. It is true that notices of such mining locations are, under the laws of the various States, required to be filed in the office of the county recorder of the county within which the location is made, but there is no such requirement in the United States mining laws.

Moreover, the preference rights given to veteran applicants under the act of September 27, 1944, extends only to applications under the homestead, desert entry, and small tract laws and does not extend to the location of mining locations under the mining laws. Further, the laws governing applications for small tracts permit the granting of leases on mineral lands, and if it were

to be held that locators under the mining laws could locate valid mining claims during the 91-day veterans' preference period, full effect would not be given to the provisions of the act under which that preference right was granted. If, during that period, the area restored from withdrawal could be validly located under the mining laws, veterans would be precluded from exercising the preference rights granted to them by law and provided for in the order itself.

You have also raised the question as to whether the provisions of the act of September 27, 1944, supra, or of any other law, requires that the 90-day veterans' preference period run from any date other than that specified in the order of December 28, 1954, i. e., 35 days from and after the date of the order, or February 1, 1955. The pertinent portion of the 1944 act requires that an order or notice of revocation from withdrawal "shall provide for a period of 90 days before the date on which it otherwise becomes effective" within which the veterans may exercise their preferred right. With regard to the order of December 28, 1954, the question is, then, whether this provision of the 1944 act requires that the 90-day preference period should run prior to the effective date recited therein, or February 1, 1955, and whether such a construction would permit the location of valid mining claims any time after February 1, 1955.

It is our opinion that the revocation order of December 28 fully complies with the requirements of the preference-right provision of the act of September 27, 1944, supra, and that no valid mining locations could have been made on the lands described therein until 126 days from and after the date of the order, that date being May 3, 1955. The provision of the order that it "shall not otherwise become effective to change the status of the lands until 10 a. m. on the 35th day after the date of the order" must be read in conjunction with the following sentence which provides that at that time (i. e. on the 35th day after date of the order) the lands shall become "subject to application, petition, location and selection, subject to * * * the 91-day preference-right filing period for veterans * * *". In other words, the date on which the order is made effective is itself subject to the 91-day preference period provided for therein. The requirement of the 1944 act, referred to above, is therefore complied with since the 91-day preference right period must elapse before the order "otherwise becomes effective."

There can be no doubt but that the phrase "otherwise becomes effective," as used in the 1944 act and in the order of December 28, must refer to the effectiveness of the order as to all persons other than those who have a preferred right, meaning, of course, the general public. Therefore, since the order sets the veterans' preference period as including 91 days from and after February 1, 1955, and since, as explained above, giving effect to the preference requirements of the 1944 act would preclude the location of mining claims on the lands during the running of that period, it is apparent that any mining claims located thereon subsequent to February 1 would necessarily be invalid.

I wish to add that we have heretofore recognized that certain misunderstandings as to the effect of such wording in restoration orders might well be made, and on April 25 we recommended to the Director, Bureau of Land Management, that the language in such orders be clarified. However, these recommendations had not been approved for use at the time the restoration order of April 27 was prepared.

If I can be of further assistance to you in interpreting the orders referred to, I shall be happy to hear from you.

Sincerely yours,

J. REUEL ARMSTRONG,

Solicitor.

63. Question. Will the lands include within the Pumpkin Butte area be opened to filing at a later date? Is there any possibility that large operators can acquire these lands without filing many claims?

Answer. Yes, the lands will be opened as soon as considered administratively desirable.

Since there is no limitation on the number of valid mining locations which any individual may make, it is possible that large operators may locate many claims but no operator, large or small, can acquire the minerals except by location upon discovery and no claim may exceed the maximum fixed by law. A lode claim may not exceed 1,500 feet along the vein and 300 feet in width on each side of the middle of the vein—approximately 20 acres. A placer must contain not more than 20 acres for each locator—"no claim to exceed 160 acres made by not less than 8 locators" (Circular 1278).

64. Question. Is there any limit to the number of claims that any person can locate and file?

Answer. There is no limit to the number of claims that a qualified citizen might locate and file.

65. Question. May the owner of lands patented under the Stockraising Homestead Act file on his own lands?

Answer. Yes; and, of course, he wouldn't have to put up a bond since he owns the surface.

66. Question. Is there any way that the lands included within the Pumpkin Butte withdrawal could be awarded by a drawing method similar to homestead drawings?

Answer. No. No such drawing method is provided for by the mining laws. The first valid location after the lands are properly opened is first in right.

67. Question. Is carnotite a metalliferous mineral?

Answer. For a long time the Department held that it was classified as a nonmineral. Now, however, it is principally valuable for its uranium which is, of course, produced and used as a metal. Hence, the Department recognizes it as metalliferous. The Solicitor's Opinion M-36225, September 8, 1954, follows:

UNITED STATES
DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D. C., September 8, 1954.
To: Secretary of the Interior.
From: The Solicitor.

Subject: Whether carnotite is a metalliferous or a nonmetalliferous mineral.

The Director of the Bureau of Land Management has requested an opinion as to whether carnotite is a metalliferous or a nonmetalliferous mineral.

The expressed reason for this request is that the Grand Junction, Colo., office of the Atomic Energy Commission wishes to secure the development of certain presumed deposits of carnotite situated in a petroleum reserve. That reserve was created by a withdrawal made under the act of June 25, 1910 (36 Stat. 847), as amended August 24, 1912 (37 Stat. 497; 43 U. S. C., sec. 141), which withdrew the land from all forms of appropriation except for locations for metalliferous minerals. The Department has held that carnotite is a nonmetalliferous mineral, *Consolidated Ores Mining Company* (46 L. D. 468 (1918)), and so long as that opinion stands the mineral when found in areas withdrawn under the above law is not open to development under the mining laws.

So far as the question relates to petroleum reserves it is now moot because the act of August 13, 1954, Public Law 585, expressly permits mining locations to be made and mineral patents to be issued for mineral deposits within petroleum reserves, whether the deposits are metalliferous or nonmetalliferous. However, it is recognized that within the vast area in Arizona, Colorado, New Mexico, and Utah known to contain deposits

of carnotite there are other withdrawals in addition to the petroleum reserves, made under the act of June 25, 1910, as amended, and that in the present greatly intensified search for fissionable source materials of which carnotite is one, it is possible that deposits of carnotite will be found in withdrawn lands in other areas to which the act of August 13, 1954, will not apply. For that reason the question is deemed of sufficient importance to justify its further consideration.

It is my opinion that carnotite is a metalliferous mineral which renders the land containing it subject to location, entry, and patent under the mining laws of the United States when found in areas withdrawn under the act of June 25, 1910, as amended.

The Department's conclusion in 1918 that the mineral was properly classified as a nonmetal was based on the manner in which the mineral was, at that time, recovered and utilized. It was then recognized that carnotite is composed of oxides of uranium, vanadium and radium bromide or chloride and that radium, uranium, and vanadium are metals. But because they were not "produced, marketed, or utilized in their elemental or metallic state" but as compounds in the form of salts or oxides for such non-metallic purposes as medicinal use, the manufacture of glass, porcelain and the like or, in small percentages as an alloy, it was deemed to be a nonmetalliferous mineral. Certain language in *Hempstead v. Thomas* (122 Fed. 538), holding tungsten ore likewise an oxide, to be nonmetalliferous, was quoted with approval. That language was to the effect that an oxide is two degrees or processes removed from metal and in order to obtain the metal the character of the ore must be absolutely changed by an expensive and intricate chemical process, *U. S. v. Brewster* (167 Fed. 122), which applied the same rule to zinc ore was also cited. It was admitted that some of the vanadium and uranium was used in special steels but in very small percentages.

The 1918 decision was correct on the basis of the facts as of that time and if the uses of carnotite ore were the same today, as they were then, I would be compelled to reach the same conclusion. However, those uses are no longer wholly the same. In 1918, carnotite was mined primarily for the vanadium. In some cases the uranium was discarded. Today the uranium is highly prized and vanadium is of lesser worth. And while it is probably true that the uses of vanadium today are not greatly different than they were in 1918, the present nonmetalliferous uses of uranium are greatly overshadowed by its use as a metal. In fact, because of its present value in the manufacture of explosives and its high potential as a source of energy for the production of heat and power, it is perhaps more sought for than any other mineral. In both of the uses mentioned it is necessary that the ore be first reduced to metal. For example:

"Uranium production in the atomic energy program is a long, complex chain of manufacturing processes that starts with uranium-bearing ore and ends with cylindrical rods of the purest uranium metal ever prepared in quantity. Impurities that would capture neutrons are intolerable. After the processes of ore treatment, purification, and reduction to metal, which are difficult enough, comes the problem of jacketing the uranium slugs to protect the metal from corrosion by water and air in the plutonium-producing reactor.

"Metallurgists of the AEC laboratories and contractors are studying the problem of impurities in present-day uranium and have succeeded in preparing small quantities of metal that is exceedingly pure insofar as the 20 to 30 elements normally found in uranium are concerned.

"However, the physical and chemical properties of uranium present many difficult problems, which have tended to impede advancement in uranium metallurgy. The noncubic arrangement of the atoms causes the metal to have different physical properties in different directions—to expand more rapidly in one dimension than in another with increasing temperature, for example. Similarly, the two rearrangements of atoms (transformations), while offering heat-treating possibilities, give uranium three structural variations, while iron has only 2 and copper only 1. . . ." Atomic Energy and the Physical Sciences (United States Atomic Energy Commission, January 1950; USGPO 1950—pp. 126-127).

The vanadium obtained from carnotite is now considered to be a secondary product, of which 90 percent is consumed as ferro-vanadium in the manufacture of tool steels, engineering steels, high-strength structural steels (Bureau of Mines Minerals Yearbook, 1952—Vanadium, by Hubert W. Davis).

Since carnotite is now principally valuable for its uranium which is produced and used as a metal, it is beyond doubt a metalliferous mineral which, when found in sufficient quantity and of good quality in lands withdrawn under the act of June 25, 1910, as amended, renders them subject to location under the United States mining laws.

J. REUEL ARMSTRONG,
Acting Solicitor.

68. Question. What are the general provisions of S. 1713?

Answer. This bill was introduced by Senator ANDERSON and cosponsored by several Senators including Senator BARRETT. The provisions of the bill could be divided into three parts:

(1) It would exclude certain minerals such as common varieties of sand, common stone, gravel, and pumice from location under mining laws and would make them subject to disposal under Materials Act.

(2) As to mining claims hereafter located, it would, prior to patent:

(a) Prohibit use of the mining claims for any purpose other than prospecting, mining, processing, and related activities.

(b) Authorize the Federal Government to manage and dispose of timber and forage, to manage the other surface resources.

(c) Bar the mining claimant from removing or using the timber or other surface resources except to the extent required for mining or related activities. After patent, the miner would acquire full title to mining claim and its surface resources.

(3) Somewhat similar to a provision of Public Law 585 of the last session, the Secretary of the Interior is authorized to commence action for determination of surface rights to mining claims on a claim believed to have become dormant or invalid in a given area. After publication of notice, Secretary of Interior is authorized to determine validity of mining claim after hearings for sole purpose of affecting rights to surface only. If mining claimant fails to assert or establish his rights or if he voluntarily waives rights to surface then he is in same position as holder of claim located after enactment of this bill. After patent he would be entitled to both surface and minerals.

The bill is designed to correct abuses in cases where mining claims have been filed for purpose of removing valuable timber, establishing fishing lodge or summer home, or for other use of surface resources and not for mining purposes.

69. Question. Just what is the Public Law 585 enacted at the last session of Congress?

Answer. The bill, S. 3344, introduced in the last Congress by Senator MILLIKIN and cosponsored by Senator BARRETT and other Senators, was enacted and became Public Law 585. That bill was designed to correct conflicts which have arisen as a result of filings

made under the Mining Act of 1872, and the Minerals Leasing Act of 1920. Under the provisions of those acts a mining claim could not be located on lands leased under the Mineral Leasing Act of 1920, and on the other hand a lease under the Leasing Act could not be issued on lands covered by a valid mining claim. The bill permitted concurrent and multiple use so that a mining claim could be located on lands presently under a mineral lease and by the same token an oil and gas or other mineral lease under the Leasing Act of 1920 could be issued on lands included within mining claims filed after the passage of the act. The bill provided for a procedure whereby notice could be given and mining claimants required to show that the requirements of the law had been met or failing to do so, the Secretary of the Interior could determine that surface of lands covered by mining claims would be subject to leasing under the Mineral Leasing Act. It was specifically provided that no action taken could affect the right of the mining claimant to extract the minerals from the land. As a result of passage of the act, a tremendous amount of land in the Western States was opened for filing both for leases under the Mineral Leasing Act of 1920 and for mining claims under the Mining Act of 1872.

70. Question. Prospectors did not obey the rules made by the Secretary of Interior when they came on the withdrawn area and staked and dug pits—just what will they do to the landowners when the Pumpkin-Buttes area is thrown open?

Answer. The landowners could protect themselves through the courts to the extent provided in applicable laws.

71. Question. Why can't the United States Government lease the United States mineral-owned land to a responsible mining company instead of having these filings and patents cluttering up deeded lands?

Answer. The Bureau of Land Management which administers the public land laws lacks statutory authority to issue uranium mining leases in this area. Section 67 of the Atomic Energy Act of 1954 authorizes the AEC to issue leases on lands belonging to the United States. The Congress, however, in House Report No. 2181, which accompanied the bill emphasized that "It is the intent of Congress that this leasing power should be invoked only where it is the only means of achieving private development of deposits of source material in lands belonging to the United States. It is not intended to supplant the mining laws in any normal situation."

In the case of the Pumpkin Buttes area certain public lands and reserved minerals in patented lands were withdrawn by Public Land Order 811 of March 7, 1952, for the use of the AEC in its search for uranium deposits. Subsequently revocation of this order was requested by AEC in accordance with its policy of releasing promptly those lands upon which no substantial uranium deposits were uncovered. Upon such revocation by the Bureau of Land Management the lands are generally restored to mineral entry. It is believed that further exploration and development can best be accomplished by private operators under the mining laws. In these circumstances the AEC would be reluctant to enter into a leasing arrangement for such lands.

72. Question. Can mineral rights be leased separately for oil and gas and lode minerals?

Answer. (a) If the mineral rights are privately owned, yes—the owner can do as he pleases.

(b) If the oil and gas and other minerals are owned by the United States:

The oil and gas as well as any phosphate, potash, nitrate, sodium, or coal may be leased under the mineral-leasing laws of the United States. Other minerals may not be leased but pursuant to Public Law 585 (68 Stat. 708; 30 U. S. C., sec. 501) they may be located under the United States mining laws,

whether the minerals be lode or placer. A lode location would take all but the leaseable minerals in such case. A placer location would not include a known lode unless it was also located.

73. Question. Do you think a law will be enacted which will give the landowners a royalty in lieu of damages resulting from oil and mineral exploration on land which the owner holds only surface rights?

Answer. Legislation has been introduced for that purpose and the decision will be made by the Congress. It is contended that precedents for this proposal can be found in the grants of even greater royalty benefits granted to owners of the surface only (a) by the State of Texas in cases of the sale of its public lands (the Republic of Texas reserved all of its domain when it became a State), (b) some Provinces of Canada to landowners when oil is discovered, and (c) the Union Pacific Railroad when oil is found on lands sold by the company with reservation of the minerals. It is also contended that land in every other section of the country was given to homesteaders with full fee simple patent except in the Western States.

74. Question. Was there any violence when the withdrawal was lifted in Kern County, Calif., and the land was opened to the filing of mining claims?

Answer. There was no violence although a large number of people were out to stake claims. It is only fair to state, however, that the situation was different than here in Wyoming. The Government owned the surface of all the land in the California case.

75. Question. What would be the effect of filing mining claims on lands to be used for the construction of a reservoir for a Federal or State reclamation project?

Answer. If the public lands were withdrawn under the Reclamation Act of June 17, 1902 (43 U. S. C., sec. 372), or included in a reservoir right-of-way under the act of March 3, 1891 (26 Stat. 1011; 43 U. S. C., sec. 946), or a similar reservoir right-of-way act, any mining location attempted to be made would be null and void. There is one exception: As to the land withdrawn under the Reclamation Act, if prior to the location the land had been opened to such location under the act of April 23, 1932 (47 Stat. 136), the location could lawfully be made.

76. Question. Does the lessee of a Federal oil and gas lease have any right to recover the uranium or minerals other than oil and gas from the leased lands?

Can the lessee restrain mining prospectors from filing mining locations on the leased lands?

Answer. The lessee of a Federal oil and gas lease has no right under his lease to any mineral except oil and gas. He has the same but no better right as any one else to locate mining claims within his oil and gas lease.

An oil and gas lessee cannot restrain or prevent another party from locating a mining claim on the land in his oil and gas lease. If the locator damages the lessee the latter can go to court, but under the law the leased land is subject to location, upon discovery of mineral, by any qualified locator.

77. Question. What is usually the amount paid owners for surface damages on a uranium claim?

Answer. No information is available in Washington on which to base an answer to this question.

78. Question. What constitutes a valid discovery? Is a reading from a nuclide meter or comparable instrument sufficient?

Answer. When a person finds mineral within the limits of his claim in quantity and of quality sufficient to justify a prudent man in the expenditure of his labor and means in the hope of developing a paying mine he has made a "valid discovery." *Castle v. Womble* (19 L. D. 455); *Jefferson-Montana Copper Mines Co.* (41 L. D. 320). Only the actual physical disclosure of minerals can

constitute a discovery. No amount of geological or other comparable evidence of the actual or probable existence of mineral is sufficient. Therefore, the reading from a nucleometer or comparable instrument is not sufficient. However, once mineral is found in whatever amount, such readings, geological inference, etc., may be considered as supplementing the physical information. See *Chrisman v. Miller* (197 U. S. 313), 2 Lindley on Mines, sections 336 and 347.

79. Question. What constitutes a legal validation of the claim? If no valuable mineral is found in the validation hole, but evidence that the mineral may lie at depth is found—enough that the prospector is willing to continue expending time, money, and effort on the claim—does that make a legal validation of the claim?

Answer. If no valuable mineral is found in the validation hole, the fact that evidence that valuable mineral may lie at depth will not constitute a discovery, the prime essential to a discovery. This is so even if there is enough geological or other evidence short of the essential physical exposure of mineral in some amount to justify a prospector in expending time, money, and effort on the claim. The amount of mineral necessary to constitute a discovery may vary depending on the associated facts.

There is a distinction between discovery as validating a claim and the compliance with State statutes requiring the sinking of a 10-foot shaft or some equivalent work in order to "validate" a location. Discovery comes first and is the prime essential. No amount of physical labor whether "validation" or "assessment work" can substitute for it.

80. Question. At what point in the acquisition and perfection of a claim does the claimholder have the right to post "No Trespass" notices that would apply to other prospectors who wish to test and take samples from the claim?

Answer. A prospector who is diligently engaged in the search for minerals on an area not exceeding the maximum for a single claim is entitled to hold that area against all others so long as he remains diligently engaged in prospecting. Absence for a material time would result in the loss of this "Pedis possessio." See *Union Oil Co. v. Smith* (249 U. S. 337).

Once he has made a valid discovery of minerals (physical exposure of minerals) within the limits of his claim and has marked the boundaries so that they can be readily traced, he may then hold the claim without maintaining his actual physical possession, subject to compliance with applicable State validation requirements such as sinking a shaft, recording the location, etc.

81. Question. In the State of Wyoming is it legal to validate uranium claims by the 50-foot drill-hole law? Is there any conflict with the Federal law as to this method of validation?

Answer. The discovery requirements of the United States mining laws may be complied with by a discovery through core drilling under the Wyoming 50-foot drill-hole law. This is true whether the lode outcrops as an apparently barren vein at the surface and the existence of mineral is first disclosed at depth or whether there is no surface exposure visible and the first definite contact with the lode is at depth. Normally, such a discovery at depth would be classified as a lode or vein, though an exception to this rule arises in the case of buried channels of ancient rivers which, historically, have been classified as placers. The important factor in core drilling discovery work is whether the core in fact is indicative of the discovery of valuable mineral. There is no conflict between the Wyoming 50-foot drill-hole law and the Federal mining laws as to this method of making a discovery on a claim.

82. Question. What is considered to be a permanent monument? More specific, what

size wooden post, iron pin, rock monument, etc., is considered acceptable?

Answer. The Wyoming law requires that the surface boundaries of a claim shall be marked by six "substantial" monuments of stone or posts hewed or marked on the side or sides which face in toward the claim and sunk in the ground, one at each corner and one at the center of each side line of a lode claim.

The Federal law requires that a claim be distinctly marked on the ground so that its boundaries may be readily traced.

Ordinarily a wooden post 4 inches in thickness (two ways) and standing well above ground or a stone of comparable size would probably be sufficient. However, in the final analysis it would be up to the local court to decide the question if it were brought into litigation.

83. Question. Explain the basic differences between the States listed below in filing and locating uranium claims:

Answer. This answer is based on information as of 1936. Changes in the law since then probably have been slight.

(a) Wyoming:

1. Must sink discovery shaft to depth of 10 feet on lode within 60 days after discovery.

2. Post at discovery point a notice giving name of claim, name of discoverer and locator and date of discovery.

3. Mark the boundaries with six substantial monuments of stone or posts, sunk in the ground, 1 at each corner and 1 at the center of each side line.

4. Record a notice of the location showing (a) name of claim (b) name of locator, (c) date of location, (d) length of claim each way from discovery point and the general course of the vein, (e) the amount of surface ground claimed on either side of the center line of the claim, and (f) a description of the claim including its location in relation to land corners or natural or fixed objects.

(b) Colorado:

In general the same as Wyoming except 90 days given to record instead of 60 days as in Wyoming and posts only provided for markers, these to be placed within 60 days after location.

(c) Idaho:

Must stake each corner and angle within 10 days; monuments must extend at least 4 feet above the ground and be not less than 4 inches in diameter and hewed or marked on side facing discovery. Must sink 10-foot shaft or 10-foot adit measuring 160 cubic feet within 60 days and record certificate within 60 days after location.

(d) South Dakota:

Similar to Wyoming except (1) boundaries must be marked by 8 substantial posts, (2) shaft, tunnel, or adit, 10 feet deep or along vein. All must be done in 60 days including the filing of certificate of location for record.

(e) Montana:

1. Notice at discovery point must show, in addition to data required in Wyoming, the approximate dimensions of area of the claim.

2. Corners must be marked within 30 days after location by (a) a tree at least 8 inches in diameter blazed on 4 sides, (b) a post at least 4 inches square by 4½ feet long, set 1 foot in the ground unless solid rock occurs at less depth surrounded in all cases by mound of earth or stone at least 4 feet in diameter by 2 feet high. A squared stump of same size and so mounted may be used, or a stone at least 6 inches square by 18 inches long, set two-thirds of its length in the ground and similarly mounted or a boulder at least 3 feet above the natural surface of the ground on the upper side. If other markings are used instead it shall be for a jury to decide if they are sufficient.

(c) Discovery shaft or cut to be completed 60 days after discovery. Ten-foot shaft or cut displacing 150 cubic feet of material.

(d) Location certificate to be recorded within 60 days after discovery.

84. Question. Has the State of Wyoming revised any part of its mining law in recent years?

Answer. Yes. The last legislature enacted the following law:

"SESSION LAWS OF WYOMING, 1955

"CHAPTER 88. LODGE AND PLACER CLAIMS

"An act to amend and reenact section 57-917, Wyoming Compiled Statutes, 1945, providing that open cuts and the drilling of holes shall be the equivalent to the sinking of discovery shafts; providing method and manner in which holes shall be drilled and lode-mining claim established; providing for the marking of mineral claims, filing of affidavits; providing that drilling of holes shall be in lieu of other methods of establishing mineral claims; and to amend and reenact section 57-91, Wyoming Compiled Statutes, 1945, providing for the time given discoverer within which to sink shaft or drill holes, and declaring an emergency to exist and providing an effective date.

"Be it enacted by the Legislature of the State of Wyoming:

"SECTION 1. That section 57-917, Wyoming Compiled Statutes, 1945, be amended and reenacted to read as follows:

"57-917. Any open cut which shall cut the vein 10 feet in length, and with face 10 feet in height, or any crosscut tunnel, or tunnel on the vein 10 feet in length which shall cut the vein 10 feet below the surface, measured from the bottom of such tunnel, shall hold such lode the same as if a discovery shaft were sunk thereon: *Provided, however,* That the discoverer of a mineral deposit may, at his option, in lieu of a discovery shaft, tunnel, or pit otherwise required by provisions of law, and for the same purposes, and under the same provisions, drill, or cause to be drilled, a hole, or holes, in the manner and under the conditions and requirements hereinafter set forth:

"1. The hole or holes shall be not less than 1½ inches in diameter.

"2. The said hole or holes shall aggregate at least 50 feet in depth, and no one hole shall be less than 10 feet in depth, and in the course thereof at least one of which shall cut or expose deposits of valuable minerals sufficient in quality to justify a reasonably prudent man in expending money and effort in further exploration or development.

"3. The discoverer shall designate one of the holes thus drilled as the discover hole, in the event that more than one such hole shall have been drilled. The said hole shall be marked by a substantial post or other permanent marker, placed at and adjacent to the hole and within 5 feet thereof, firmly fixed in the ground, and extending at least 30 inches in height above the ground, and on which shall be placed the name of the claim, the owner thereof, the depth of the hole, and the date of the drilling thereof.

"If, in drilling such hole or holes, a water-bearing stratum or strata is entered or cut by the drill, then, in such event, the hole shall be plugged back by or on behalf of the discoverers, locator or owner, who has drilled the hole, or someone on his behalf, to a point immediately above such water-bearing stratum or strata, placing therein a plugging material or substance which is recognized and adequate to shut off said water-bearing stratum or strata. Within the time allowed by the provisions of 57-918, Wyoming Compiled Statutes, 1945, the discoverer, locator, or owner, or someone on his behalf, shall set forth in an affidavit hereinafter provided for, or in a separate affidavit, setting forth the depth said water strata was encountered and the facts of the plugging thereof.

"The drilling of such hole, or holes, or the sinking of the shaft or making of the discovery pit otherwise provided for in this act shall be made a matter of record by the recording in the office of the county clerk of the county in which the claim shall be situ-

ated the affidavit or sworn statement of the discoverer, locator, owner or his or their agents stating the date of such work, the nature thereof, the person or persons by whom performed, the location of such work within the claim, and the nature of the mineral discovered. Such affidavit may be a part of the location certificate to be thereafter recorded in accordance with the provisions of this act.

"The creation of the rights provided for in this act are based upon the truth of the statements contained in such affidavit or statement and the certificate of location, herein otherwise provided for, and no rights of any kind or nature shall vest or exist or be created or arise when any material statement or representation therein made is false.

"The owner of any mining claim located prior to the effective date of this act and who has performed discovery work may avail himself of the provisions hereof by making the drill hole or holes herein provided for and filling any discovery cut previously made, and making and placing of record the affidavit herein provided for, together with a statement of the filling of such discovery pit or cut, and that the said work was done and the affidavit made for the purpose of obtaining the benefits of this act."

"Sec. 2. That section 57-918, Wyoming Compiled Statutes, 1945, be amended and reenacted to read as follows:

"57-918. The discoverer of any mineral lode or vein in this State shall have the period of 60 days from the date of discovering such lode or vein in which to sink a discovery shaft thereon, or to make the open cut equivalent to such discovery shaft, or to drill the hole or holes hereinbefore provided."

"Sec. 3. This Act shall take effect and be in force from and after its passage."

85. Question. Most uranium claims in central Wyoming have been filed as lode claims—is this correct?

Answer. In all cases whether a claim is properly located as a lode depends upon the manner in which the deposit occurs. Rock in place bearing valuable minerals is locatable as a lode, other deposits are placer. The answer always depends upon the facts in the particular case.

While there may be an area where disagreement is possible the above rule is the best one to follow.

86. Question. Does the apex and other lode claim laws apply to uranium claims?

Answer. Yes, if the deposit is in rock in place. It is understood that in Colorado and Utah the miners have agreed not to recognize the apex law as applied to uranium deposits. Assuming similar conditions in Wyoming it might be advisable for the miners there to consider the making of similar agreements since by so doing they may avert many future controversies.

87. Question. What, if any, are the laws covering prospecting by aircraft?

Answer. We know of no laws on this subject. There is no law prohibiting same, but it is doubtful if you can make a valid location, which is based on discovery by aircraft prospecting.

88. Question. What constitutes abandonment of a claim?

Answer. Abandonment of a mining claim is always a question of intention (Lindley on Mines, sec. 643). Legally defined it may be said to be the giving up or relinquishment of property to which a person is entitled with no purpose of again claiming it and without any concern as to who may subsequently take possession (*South Dakota v. Madill* (53 I. D. 199)). Lapse of time, absence from the ground, or failure to work a claim for any definite period, unaccompanied by other circumstances, are not evidence of abandonment (Lindley on Mines (sec. 644); see also *Solicitor's Opinion* (53 I. D. 491, 494)).

89. Question. If a claim is relocated in the name of the same locator with the purpose of gaining more time in which to do the val-

uation work, the discovery date being advanced in the relocation, and there being no intervening rights, is the claim legal?

Answer. Yes. So far as the United States is concerned one who shows that he has made a location based upon a valid discovery of minerals is recognized as the owner of a valid mining claim, and the last date of location would be accepted. Even if the location is made at one date and the discovery is made at a much later date we would recognize the discovery as validating the claim in the absence of an intervening adverse claim. However, failure to make a discovery or to validate according to State law will leave the claim subject to relocation by another.

90. Question. Is a mining district type of organization recommended to solve special law enforcement problems?

Law officers seem to feel that the most volatile situation for them is the fact that all prospectors are permitted to carry weapons, few of them having any experience in handling those weapons. This, these law officers feel, is a serious situation, one that will erupt in violence which otherwise could have been prevented.

Answer. Mining districts afforded a rule of law and order in an era when State and local organizations did not exist or were so far removed from the scene that adequate enforcement from that quarter was impracticable. Most mining districts have ceased to function. Where they do they do not do so as law enforcement agencies. Law enforcement in all of the Western States is now vested in the officials duly elected or appointed pursuant to law.

Any further answer to this question would have to come from State authorities.

The United States never had any jurisdiction over mining districts as such. The mining law provided for recognition as between the miners of mining district rules but this was—and would now be—a purely local problem unless the rules modified some provision of Federal law which could be done in some instances. Thus the maximum size of a claim could be fixed at less—but not more—than the Federal law prescribes.

91. Question. Is the United States Government attempting to encourage the oil and gas industry to enter the uranium business? If so, why?

Answer. The AEC encourages the exploration for and mining of uranium by all segments of the mining industry including oil and gas companies. The petroleum industry has not been the object of special attention although the AEC, working through the American Association of Petroleum Geologists and similar organizations, has endeavored to insure that uranium deposits would not be overlooked in the exploration for oil.

92. Question. What protection do you have when you are overstacked and your claim was valid before the overstacking?

In a hypothetical case it is maintained that if you are overstacked—after your claim is valid, and you may even be mining—you must again clear your title before you can proceed to patent, or receive your bonus payment from the AEC. If you do not pay the overstacker to pull up his stakes, or quitclaim to you, it will be necessary to go to court to clear your title. Once this is done, your claim is tied up in litigation. The AEC will not buy your ore and the SEC, if you have stock issued on the claims, will not permit you to sell your stock. While this is not an insurmountable problem for the large operator, it can destroy the small one.

Some maintain that shotgun guards are the only answer to this problem—if you do not wish to spend half your time in court. If such is the case—what steps, physically, can a guard take and still be within the law?

Answer. The question of the respective rights of the holder of a valid mining claim

which is overstaked by another claimant is a matter of the right of possession between rival or adverse claimants in the same mineral land, and is committed exclusively to the courts for determination. See 30 U. S. C., secs. 29 and 30. Therefore, the only protection a mining locator would have against such overstacking would be that afforded him under the laws of the State as construed and interpreted by its courts.

93. Question. Do uranium mines, regardless of size, fall under the regulations of the United States Bureau of Mines?

Answer. If the reference is to mine safety the answer is no. However, the Bureau does, on request, examine and report on the safety of such mines. Otherwise the Bureau of Mines has no control over such mines.

94. Question. Could a mining district legally rule that no weapons may be carried within the district?

Answer. This is a matter of State and local concern. We have no voice in the matter. Our authority is limited to a recognition of properly constituted mining districts and if such a district limited the maximum size of lode claims to less than that fixed by Federal law; for example, it might be recognized by us as a limitation on size and patent applicants be required to conform.

95. Question. What legality has a uranium placer claim top-filed on a uranium lode claim? Is it necessary for the purpose of clearing title to lode claims to obtain quitclaims to any uranium placer top filings?

Answer. If the first uranium claim is based on the discovery of a vein or lode the later placer location would be invalid. In such case if the lode claimant applied for a patent for the placer claimant's only recourse would be to file an adverse claim and bring an action in the local courts.

The question of the lode claimant's (possessory) title in the face of such a location would be that his title would be good but if he wanted to get rid of the superimposed placer cloud he would have to get quitclaims or bring an appropriate action in the local courts. He could, of course, proceed without regard to the placer leaving it up to the placer claimant to take action in the court if he desired.

96. Question. If a person has a valid bentonite mining claim, may another person locate a uranium claim on same lands?

Answer. Bentonite, if located in quantity and of sufficient quality to meet the requirements of a discovery of "valuable" mineral within the purview of the mining laws may become the basis of a valid mining claim. The owner of such a valid mining claim, properly maintained in accordance with applicable Federal and State laws, would have the exclusive right of possession thereto under the mining laws and no one else may superimpose thereon any uranium or other mining location.

97. Question. (a) Please explain the standard procedure used and approved by the Atomic Energy Commission for uranium analyses.

(b) If uniform method has been adopted how is it that frequently the same ore is analyzed two different times with substantially different results?

(c) Why does the AEC insist on pulverizing the ore before testing?

Answer. (a) The ground ore is digested usually by acid, the uranium dissolved, and analyses made by one of several prescribed methods, depending on what ore is being tested. The analytical methods are described in detail in the booklet *Manual of Analytical Methods for the Determination of Uranium and Thorium in Their Ores*, edited by the New Brunswick Laboratory of the AEC. This manual may be purchased for 20 cents from the Superintendent of Documents, Government Printing Office, Washington 25, D. C. It is necessary to employ more than one analytical method because of the variation in uranium content

in ores, ranging from high-grade pitchblende from the Belgian Congo (containing as much as 70 percent U_3O_8) to low-grade Florida phosphate rock (containing about .01 percent U_3O_8). For example, western ores, which range from .05 percent to 5 percent U_3O_8 , may be analyzed by method No. 2 described in the manual.

(b) Because uranium is contained in relatively small proportions in ores and because certain other elements, which frequently also occur in the ores, may interfere with the detection of uranium, the analysis for uranium is always a comparatively difficult one. However, results by different competent laboratories using splits of the same sample generally are in close agreement. When cases arise of wide variation in analytical results, methods for analyzing additional samples or arranging an "umpire analysis" are a part of prescribed AEC procedure.

(c) The entire lot of ore is not pulverized, although when mechanical sampling is undertaken the lot may be crushed in accordance with standard practice. In taking the first sample split from a lot of ore, good sampling practice prescribes that the ore be crushed to the size required to obtain an accurate sample. As the size of the sample is reduced progressively to provide the ultimate sample, the particle size must also be progressively reduced. The final sample from which only a few grams are taken for determinations is therefore pulverized.

98. Question. What is the outlook for the uranium industry after the end of the support period of 1962?

Answer. The domestic uranium ore buying schedule is guaranteed through March 31, 1962. This does not necessarily indicate an end date. This program has had earlier termination dates—first in 1951, then extended to 1954, then to 1958, and now to 1962. While no definite commitment can be given, there well may be further extensions of the guaranteed market under the defense program.

The long-term market depends on the use of nuclear fuel for the production of industrial power. Studies by the Commission and by large industrial firms working on the problem indicate that within 10 years nuclear power will be competitive, at least in high-cost power areas. Information and experience in constructing and operating the first plants should lead to improved design and technology and lower capital and production costs. On the basis of rough assumptions and predicated upon favorable developments, it appears that we might have a nuclear capacity equal to our present total capacity by 1975 or 1980. There is no doubt about the future importance of the uranium industry.

99. Question. In the opinion of the AEC, how does Wyoming compare with the Colorado Plateau as a possibility for a large uranium industry?

Answer. The Colorado Plateau is the major domestic uranium-producing area and the combined ore reserves of Colorado, Utah, New Mexico, and Arizona are far greater than the ore reserves known at the present time in Wyoming. However, with the increased exploration activity in the State, additional deposits are being found and the prospects of Wyoming becoming an important new area of production appear favorable.

100. Question. How long does it take to get a custom mill approved by AEC so that construction may begin?

Answer. Evaluation of mill proposals may take several weeks. Beyond that the time required to conclude a contract may be determined by the problems encountered in reaching agreement on business aspects of the proposal. On the basis of experience the minimum period for completion of a contract would be about 3 months. The foregoing assumes that the tonnage and grade of ore have been determined and that the metallurgical methods and expected treatment costs have been worked out. In some instances substantial delay has been injected by the contractor's private negotia-

tions for financing. There is always a possibility that the prospective contractor may encounter difficulties involving land acquisition, water rights, power supply, and other plant requirements. Usually there has been essential agreement on the principal terms of the contract prior to the execution so that the contractor has been able to proceed with plant design and engineering work and thereby minimize delays in getting into production.

ADJOURNMENT TO MONDAY

Mr. HOLLAND. Mr. President, I understand an order has been entered that when the Senate concludes its business today it stand in adjournment until noon on Monday next. Is that correct?

The PRESIDING OFFICER (Mr. ERVIN in the chair). The Senator is correct.

Mr. HOLLAND. Pursuant to that order, I now move that the Senate adjourn until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 1 o'clock and 35 minutes p. m.) the Senate adjourned, the adjournment being, under the order previously entered, until Monday, June 27, 1955, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 24, 1955:

BOARD OF PAROLE

Gerald E. Murch, of Maine, to be a member of the Board of Parole for the term expiring September 30, 1959.

William F. Howland, Jr., of Virginia, to be a member of the Board of Parole for the term expiring September 30, 1960.

EXTENSIONS OF REMARKS

Job Opportunities for Handicapped in Small Business

EXTENSION OF REMARKS

OF

HON. GEORGE A. SMATHERS

OF FLORIDA

IN THE SENATE OF THE UNITED STATES

Friday, June 24, 1955

Mr. SMATHERS. Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD an article by Wendell B. Barnes, Administrator of the Small Business Administration, entitled "Job Opportunities for Handicapped in Small Business," which appeared in the June issue of Performance, a monthly magazine published by the President's Committee on Employment of the Physically Handicapped.

I am particularly gratified to know of the keen interest the Small Business Administration is taking to encourage the employment in small business of the physically handicapped throughout the country. Since approximately 70 percent of the labor force of the United

States is employed in small business or industry, it is highly desirable that every effort be made to encourage the smaller industrial concern to increase the number of physically handicapped persons on its payroll.

I take great pride in noting that one of the outstanding examples of how small business can properly employ the physically handicapped mentioned in the article is the case history of a Florida small-business concern. This concern is the Empire Furniture & Rattan Works of Coral Gables whose policy it is to employ physically handicapped persons. This policy was initiated by Edward Axrod, a young man physically handicapped from birth. One of the first loans made by the Small Business Administration was to help this small firm.

Both Edward Axrod and his father, Leo Axrod, contributed immeasurably toward the spread of the movement to encourage the employment of the physically handicapped, not only in every important community in the United States, but to foreign countries as well. The State of Florida and the Nation owe an everlasting debt of gratitude to them for the great public service which they have rendered.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JOB OPPORTUNITIES FOR HANDICAPPED IN SMALL BUSINESS

(By Wendell B. Barnes, Administrator, Small Business Administration)

The Small Business Administration is keenly interested in the physically handicapped, and its programs are geared to help those engaged in small business. In its approach to the problems of small concerns it always tries to be humane, considerate, and sympathetic. This, of course, is the decent way. Moreover, it is good business and good for the country to utilize the productivity of the physically handicapped.

In this it is following a pattern of conduct that was established by President Eisenhower himself. In an address at Denver a year ago, the President said:

"Now this program at home can be defined best, I think, by saying this: that it has been a liberal program in all of those things that bring the Federal Government in contact with the individual; when it deals with the individual and his problems; in this field, the Government tries to be humane, considerate, and sympathetic—and that is true liberalism."

In view of this humane, considerate approach, it is not surprising that one of the first loans made by the Small Business Administration was to help a small firm which

employs physically handicapped persons. This firm is the Empire Furniture and Rattan Works of Coral Gables, Fla. In 1942 this firm adopted the policy of employing physically handicapped persons. This policy was established by Edward Axrod, a young man who was physically handicapped from birth.

The pioneering efforts of this young man, and his father, Leo Axrod, who now carries on the business, helped spread the movement among businesses to hire physically handicapped persons to every important community in the United States and to foreign countries. The story of Edward Axrod is, of course, familiar to the readers of *Performance*; there is no need to repeat it here. But it is of interest to show how our sympathetic approach to the problems of small business resulted in a business expansion loan to this enterprising firm.

It was in February 1954, that the proprietor of this firm came to the Small Business Administration. Mr. Axrod asked the agency to share in a \$20,000 bank-participation loan to help him increase production. The firm was then employing 23 persons, mostly physically handicapped, and wanted to expand, to provide employment for 17 additional handicapped persons.

Mr. Axrod had already talked over with his banker the need for more funds to expand operations. The banker wanted to make the loan, but it was against the bank's policy to make loans for such a long term, in this case 4 years. However, the bank was willing to take half the loan, if we would take the other half. Our investigation was favorable, and a short while later the funds were disbursed to help this firm remodel and expand, and provide more jobs for physically handicapped persons.

That, very briefly, is the story of one loan we have made to help a firm that has pioneered in giving jobs to physically handicapped persons. There have been others, and I have no doubt that in the future there will be more. For it is becoming increasingly clear to all of us that providing jobs for handicapped persons is more than kindness and consideration. It is also good business. Properly placed, physically handicapped persons are good craftsmen. Consider for a moment this statement made to us in their loan application by the Empire Co.:

"While we are extremely proud of our work with the handicapped, we are most happy too, that we make such products of excellence that have given our firm root in the homefurnishing field of our area and the country. We export some furniture to Latin

American countries and are attaching a catalog printed in Spanish and English to give you some idea of our line."

There is the traditional spirit of American enterprise for you: It is a spirit we are happy and eager to foster.

We are proud of the agency's record of providing financial assistance to help enterprising small firms expand and grow. So far, we have approved more than 1,300 business loans totaling about \$70 million and two-thirds of these loans have been made in participation with private banks.

In addition, we have approved more than 1,100 disaster loans totaling \$7,700,000 to individuals and firms who suffered damage in catastrophes such as floods, hurricanes, tornadoes, and earthquakes. This is a purely humanitarian function.

But the Small Business Administration also has other programs of which it is equally proud, and they are all geared to the central idea of helping small business grow and prosper. All of them are, of course, available to the physically handicapped and to firms employing physically handicapped.

Not so well known, perhaps, as our financial-assistance program, is our program to help small firms obtain a fair share of Government purchase orders. Here is the way it works.

The Small Business Administration has representatives stationed in principal procurement centers of the military departments across the country. Here, all individual proposed procurements valued at \$10,000 or more (except those classified as "confidential" or higher) are screened jointly by the Small Business Administration representatives and military procurement officers.

Those found suitable for performance by small business, if jointly agreed to by the Small Business Administration and the military, are earmarked and reserved exclusively for competitive award to small firms. In some cases, portions of proposed procurements are also earmarked for performance by small firms under this program.

Under this one program we have been able to earmark more than \$500 million in Government purchases for exclusive competitive award to small firms. This is business that these small firms would probably not have received except for this program.

Of course, the Small Business Administration also assists small firms in other ways. The agency's 40 regional and field offices are constantly making prime contract bid referrals to small firms with suitable facilities to bid on Government contracts.

In addition, through cooperative programs, its representatives are constantly encourag-

ing larger private firms to subcontract more of their orders with smaller firms in their area.

For many small firms, the most serious problem is not one of obtaining financing of Government contracts, but an urgent need for help in overcoming a management or technical problem or in acquiring greater management and technical skill. The Small Business Administration helps here in a number of ways.

In cooperation with the Small Business Administration, collegiate schools of business and other educational institutions offer owners of small firms courses in currently important business administration subjects. These courses, conducted in the evening, are taught by experienced business leaders and college teachers. This year more than 55 such courses were offered.

The Small Business Administration publishes three series of practical, helpful leaflets called *Management, Technical and Marketers Aids for Small Business*. These leaflets cover a wide range of management and production problems, telling how to recognize and deal with them. They are available free at all of our field offices. In addition to these programs, all of which are available to help physically handicapped persons who have small businesses, as well as others, the Small Business Administration also provides experienced counsel to small business concerns and individuals in locating a marketable product or new line or type of product, or in locating a market for a product.

This products assistance program is designed to assist small firms in finding solutions to research and development problems regarding product improvement and new products. As part of this agency service, field offices maintain lists of Government-owned patented products and processes which are available to small firms free or with only a nominal charge for their use.

Production specialists in the Small Business Administration offices are available to help individual small-business concerns with technical production problems.

All of the services the agency has developed to help small business are available at its field offices. In order to foster better cooperation between firms employing physically handicapped persons and this agency, each field office has been provided with a list of certified sheltered workshops and a list of competitive firms employing handicapped persons. Persons interested in this subject may check their local telephone directories or write the Small Business Administration, Washington 25, D. C.

SENATE

MONDAY, JUNE 27, 1955

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

O thou God of the changing years, in this still moment of another week's deliberations may a holy hush within our spirits whisper courage and fortitude and fidelity. We would make our hearts, cleansed by Thy forgiving grace, a temple of Thy presence, knowing that only to the pure dost Thou grant the vision of Thy face. We come asking not that Thou wouldst give heed to the faltering petitions our lips frame, but that Thou wilt bend Thine ear to the crying of our deep need.

We bring to the altar of prayer our inmost selves, cluttered and confused, where good and evil, the petty and the great, the worthy and the unworthy are

so entwined. May the eternal immensities shame our little thoughts and ways. May the vision of what we might be convict us of what we are. In this great day of Thy visitation on the earth, may we not miss the things belonging to our peace and to the peace of the whole world. We ask it in the dear Redeemer's name. Amen.

THE JOURNAL

On request of Mr. JOHNSON of Texas, and by unanimous consent, the reading of the Journal of the proceedings of Friday, June 24, 1955, was dispensed with.

MESSAGE FROM THE HOUSE—ENROLLED BILL AND JOINT RESOLUTION SIGNED

A message from the House of Representatives, by Mr. Bartlett, one of its

clerks, announced that the Speaker had affixed his signature to the following enrolled bill and joint resolution, and they were signed by the Vice President:

S. 67. An act to adjust the rates of basic compensation of certain officers and employees of the Federal Government, and for other purposes; and

S. J. Res. 67. Joint resolution to authorize the Secretary of Commerce to sell certain vessels to citizens of the Republic of the Philippines; to provide for the rehabilitation of the interisland commerce of the Philippines; and for other purposes.

COMMITTEE MEETINGS DURING SENATE SESSION

On request of Mr. KEFAUVER, and by unanimous consent, the Monopoly and Antitrust Subcommittee of the Committee on the Judiciary was authorized to meet for hearings this afternoon at 2 o'clock, during the session of the Senate.